

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 243 OF 2017
(Subject – Police Patil)**

DISTRICT: JALGAON

Shri Pralhad Tanku Patil,)
Age: 36 years, Occu. : Agri,)
R/o Ghumawal Khurda,)
Tq. Chopad, Dist. Jalgaon.)

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through its Secretary,)
Home Department, Mantralaya,)
Mumbai- 32.)
- 2) **The District Collector,**)
Jalgaon at Jalgaon.)
- 3) **Sub-Divisional Officer,**)
Amalner Division Amalner,)
Dist. Jalgaon.)
- 4) **The Tahsildar/**)
Executive Magistrate)
Chopda at Chopda)
Dist. Jalgaon.)

.. **RESPONDENTS**

APPEARANCE : Shri P.N. Nagargoje, learned Advocate holding
for Shri D.B. Thoke, learned Advocate for the
Applicant.

: Smt. Deepali S. Deshpande, Presenting Officer
for the Respondents.

CORAM : **HON'BLE SHRI B.P. PATIL, MEMBER (J).**

DATE : **12.03.2018.**

ORDER

1. The applicant has challenged the order dated 29.03.2017 issued by the respondent No. 3 suspending him from the post of Police Patil of village Ghumawal (Kh), Tq. Chopda, Dist. Jalgaon and prayed to quash and set aside the said order by filing the present Original Application.

2. The applicant has been appointed as a Police Patil of village Ghumawal (Kh), Tq. Chopda, Dist. Jalgaon on 23.06.2006 by following due procedure and since then, he was working as a Police Patil of village Ghumawal (Kh), Tq. Chopda, Dist. Jalgaon till his suspension. His entire service record was unblemished and there was no complaint regarding his work. The Police Patil is ex-officio secretary of the "Tanta Mukti Samiti" of the group grampanchayat Machala Tq. Chopda, Dist. Jalgaon and he had done excellent job. Therefore, he was awarded with the 'appreciation certificate' by the District Superintendent of Police.

3. It is contention of the applicant that one Shri Prakash Ramdas Patil and others were on inimical terms with his father. Those persons attacked his father with deadly weapons. Therefore a Crime for the offence punishable U/s 307 of the Indian Penal Code had been registered against them. Thereafter, a Sessions Case No. 45/1992 had been registered against them and after trial the accused came to be acquitted. As a consequence of

it, on 1.12.2016 a false non-cognizable case was filed against the applicant u/s 323 of the Indian Penal Code, alleging that the applicant pelted the stones and thereby injured the complainant. The applicant had also filed a complaint against them on the same day u/s 323, 504, 506 of the Indian Penal Code and it was registered as a N.C.R. Case No. 477/2016. Thereafter, on 03.12.2016 Shri Prakash Patil and others filed complaint with the District Collector, Jalgaon alleging that the applicant is having the criminal antecedent & he creates the terror among the villagers and there is every possibility that it may cause threat to the peace and public tranquility in the village. On the basis of said complaint, the Sub Divisional Magistrate Amalner Division Amalner issued a notice to the applicant. The applicant had given his reply to the notice. After considering his explanation, the S.D.O., Amalner has passed the impugned order of suspension in view of the Section 11 of the Maharashtra Village Police Act, 1967. It is contention of the applicant that the impugned order is against the provisions of Maharashtra Village Police Act, 1967 and the respondents had not considered the excellent record of the applicant while discharging his duties as Police Patil. It is his contention that the impugned order is against the provisions of law and therefore, he has filed the present O.A. and prayed to quash and set aside the impugned order and to revoke his suspension.

4. The respondent Nos. 2 and 4 have filed their common affidavit in reply and resisted the contention of the applicant. They have admitted the fact that the applicant was appointed as a Police Patil of Village Ghumaval (Kh.) Tq. Chopda on 23.06.2006 and he was ex-officio secretary of the "Tanta Mukti Samiti" of the group grampanchayat Machala Tq. Chopda, Dist. Jalgaon. It is their contention that on 03.12.2016 one Shri Prakash Patil with other villagers has filed written complaint against the applicant to the Collector, Jalgaon alleging that the applicant is having criminal antecedent and he creates terror among the villagers and there is every possibility of causing threat to the peace and tranquility in the said village. The complaint was signed by as many as 180 villagers. The complaint was forwarded to the Assistant Police Inspector, Adawad Police Station, Taluka Chopda, who made enquiry and submitted his report to the office of Sub Divisional Officers, Amalner. He found that a crime bearing NCR Case No. 477/2016 for the offences punishable u/s 323,504,506 of the Indian Penal Code has been registered against the applicant. Not only this, but a chapter case under section 107 of CRPC has been filed against the applicant. Considering the report of the Police, the respondent No. 3 found that the applicant was involved in the criminal cases and he was not suitable for discharging duty of Police Patil and therefore, he has passed the impugned order of suspension in view of the provisions of Section

11 of the Maharashtra Village Police Patil Act, 1967. It is their contention that the said order is in accordance with the provisions of Maharashtra Village Police Act, 1967 and there is no illegality in the said order. Therefore, they prayed to reject the present Original Application.

5. The respondent No. 3 has filed their affidavit in reply and resisted the contentions of the applicant. He has admitted the fact that the applicant was appointed as Police Patil of village Ghumawal (Kh.) Tq. Chopda since 23.06.2016. He has raised the similar ground to that of the grounds raised by the respondent Nos. 2 and 4 in their affidavit in reply. It is his contention that he made enquiry in the complaint filed by the villagers and issued notice to the applicant. The applicant has submitted his reply and after considering his reply, he passed the impugned order of suspension in view of the provisions of Section 11 of the Maharashtra Village Police Patil Act, 1967. It is his contention that the impugned order is legal and proper and therefore, he prayed to reject the present Original Application.

6. I have heard Shir P.N. Nagargoje, learned Advocate holding for Shri D.B. Thoke, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondent. I have perused the documents placed on record by both the parties.

7. Admittedly, the applicant was appointed as Police Patil of village Ghumawal (Kh.) Tq. Chopda on 23.06.2006 after following due procedure. Admittedly he was working as a Police Patil till his suspension by impugned order dated 29.03.2017. Admittedly, one Shri Prakash Ramdas Patil and other villagers have filed complaint with the Collector, Jalgaon alleging that the applicant had criminal antecedents & he creates the terror among the villagers and there is every possibility of causing threat to the peace and tranquility of the said village. Admittedly, the respondent No. 3 S.D.O. Amalner made enquiry in the complaint and thereafter, issued show cause notice to the applicant. The applicant had filed his reply to the said notice. On considering the reply of the applicant, the S.D.O. had passed the impugned order of suspension under Section 11 of the Maharashtra Village Police Patil Act, 1967. Admittedly, a criminal case bearing Session Case No. 45/1992 has been registered against one Shri P.R. Patil and others on the basis of complaint filed by father of the applicant, but it ended in acquittal. Admittedly, a non-cognizable case was registered against the applicant u/s 323 of the Indian Penal Code. Admittedly, the applicant has also filed a complaint for the offences punishable u/s 323, 504, 506 of the Indian Penal Code on the same day and it was registered as NCR case No. 477/2016.

Admittedly, a chapter case under section 107 of CRPC has been filed against the applicant before the Executive Magistrate.

8. Learned Advocate for the applicant has submitted that the applicant is serving as a Police Patil since the date of his appointment i.e. from 23.06.2006. He has submitted that the applicant has rendered unblemished service since then. His work was appreciated and he was awarded with the 'appreciation certificate' by the District Superintendent of Police. He has submitted that one Shri Prakash Patil with other villagers had filed written complaint against the applicant to the Collector, Jalgaon alleging that the applicant is having criminal antecedent and he creates terror among the villagers and there is every possibility of causing threat to the peace and tranquility in the said village. He has submitted that on the basis of said complaint, the S.D.O. had made enquiry in the application and passed the impugned order of suspension on the ground that the non-cognizable case has been registered against the applicant and chapter case was filed against the applicant. He has submitted that the S.D.O. has not considered the fact as to whether there was any substance in the allegations made in the complaint. He has submitted that the S.D.O. has not decided the application properly and therefore, the impugned order of suspension is

illegal. Therefore, he prayed to quash the said order of suspension.

9. Learned Presenting Officer has submitted that the S.D.O. Amalner had taken a proper decision in view of the provisions of Section 11 of the Maharashtra Village Police Patil Act, 1967. She has submitted that the non-cognizable case and chapter case has been registered against the applicant. As the Criminal case was pending and trial was going on, the S.D.O. Amalner has passed the impugned order of suspension of the applicant from the post of Police Patil of village Ghumawal (Kh), Tq. Chopda, Dist. Jalgaon in view of the provisions of Section 11 of the Maharashtra Village Police Act, 1967. He has submitted that there is no illegality in the order of suspension. Therefore, she prayed to reject the present Original Application.

10. On perusal of the record, it reveals that at the time of passing of impugned order of suspension the non-cognizable case has been registered against the applicant. Not only this, but the chapter case under section 107 of CRPC has also been registered against him at that time. The S.D.O. Amalner has considered the said aspect and passed the impugned order of suspension in view of the Section 11 of the Maharashtra Village Police Act, 1967. The provisions of section 11 of the said Act are material and therefore, the same are reproduced :-

“11. The District Magistrate, or a Sub-Divisional Magistrate who is competent to make the appointment of a Police-patil, may suspend the Police-patil, if serving within the limits of his jurisdiction, pending a departmental inquiry or the inquiry and trial in a criminal prosecution against such Patil.”

11. On going through the provisions of Maharashtra Village Police Act, 1967 it reveals that the S.D.O. Amalner, who is appointing authority, has power to suspend the Police Patil, pending a departmental inquiry or the inquiry and trial in a criminal prosecution against such Patil. Admittedly, on the date of passing the impugned order, the chapter case was pending against the applicant and therefore, in my view, there is no illegality in the impugned order of suspension passed by the respondent No. 3 i.e. the S.D.O. Amalner suspending the applicant from the post of Police Patil of village Ghumawal (Kh), Tq. Chopda, Dist. Jalgaon. Section 11 empowers the S.D.O., who is appointing authority of Police Patil to pass such order of suspension pending trial in criminal prosecution against such Patil. Therefore, I do not find any illegality in the order under challenge. Learned S.D.O. has rightly passed the impugned order of suspension considering the provisions of sec. 11 of Maharashtra Village Police Act, 1967. Therefore, I do not find merit in the O.A. Consequently, it deserves to be dismissed.

12. In view of the discussions in foregoing paragraphs, the Original Application stands dismissed with no order as to costs.

(B.P. PATIL)
MEMBER (J)

PLACE : AURANGABAD.

DATE : 12.03.2018.

KPB/S.B. O.A. No. 243 of 2017 BPP 2018 P.P.