

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 326 OF 2017  
(Subject – Police Patil)**

**DISTRICT: PARBHANI**

**Shri Nilkant Shivaji Jadhav,** )  
Age: 27 years, Occu. : Agril, )  
R/o Gaulwadi, Tq. Gangakhed, )  
Dist. Parbhani. ) .. **APPLICANT**

**V E R S U S**

1) **The State of Maharashtra,** )  
Through it's Secretary, )  
Home Department, )  
Mantralaya, Mumbai. )

2) **The Collector,** )  
Parbhani, Tq. & Dist. Parbhani. )

3) **Shri Sub Divisional Officer,** )  
Gangakhed, Tq. Gangakhed, )  
Dist. Parbhani. )

4) **The Tahasildar,** )  
Gangakhed, Tq. Gangakhed, )  
Dist. Parbhani. ) .. **RESPONDENTS**

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**APPEARANCE** : Shri Sandip Rathod, learned Advocate for the  
Applicant.

: Shri N.U. Yadav, learned Presenting Officer for  
the Respondents.

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

**DATE : 22.03.2018.**

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**O R D E R**

1. The applicant has challenged the impugned order dated 28.07.2016 issued by the respondent No. 3 rejecting his

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application for appointing him on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani and prayed to quash and set aside the impugned order by allowing the present Original Application. He has also sought direction to the respondent Nos. 2 to 4 to direct them to appoint on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani.

2. The applicant has passed B.A. examination in the year 2013 from YCMU Nashik. He belongs to Hindu-Banjara caste which comes under VJNT category.

3. The respondent No. 3 issued proclamation/ advertisement in the year 2015 inviting applications from the eligible candidates for appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. The applicant and others had filed applications for the appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. The applicant and other eligible candidates have appeared for written examination. The applicant had passed written examination successfully and therefore, he, Shri Satish Kisan Rathod and other two candidates had been called for oral interview. They appeared for oral interview. On conclusion of oral interview, the mark list of the candidates, who appeared for oral interview had been published by the respondent No. 3. As per

the said list, Shri Satish Rathod secured 72 marks in aggregate, while the applicant secured 68 marks in aggregate. Shri Satish Rathod stood first in the merit list, while the applicant stood second in the merit list. As per the said list published by the respondent No. 3, as Shri Satish Rathod secured highest marks, the respondent No. 3 appointed him as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. Accordingly, Shri Satish Rathod joined the post and worked there. On 01.07.2016, Shri Satish Rathod tendered his resignation from the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, as he was appointed as peon in other Government Department. His resignation was accepted. Consequently, the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani become vacant. The applicant moved an application dated 25.07.2016 before the respondent No. 3 and prayed to appoint him as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, as he stood second in the merit list published by the respondent No. 3. Thereafter, he sent another reminder dated 16.08.2016 to the respondent No. 3. The respondent No. 3 rejected his application on 28.07.2016 on the ground that there is no provision as per the recruitment Rules of Police Patil to appoint a candidate, who stood second in merit list on the post of Police Patil, which fell vacant due to resignation of the candidate selected and appointed

on the said post. It is his contention that the impugned order issued by the respondent No. 3 is not in view of the recruitment Rules of Police Patil and it is illegal. It is his contention that he stood second in the merit list and therefore, he is waiting list candidate and therefore, he is entitled to get appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani after resignation tendered by Shri Satish Rathod. Therefore, he prayed to allow the present O.A. and to quash and set aside the impugned order dated 28.07.2016 issued by the respondent No. 3 rejecting his application and also prayed to appoint him as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani.

4. The respondent No. 3 has filed his affidavit in reply and resisted the contention of the applicant. He has admitted the fact that he issued proclamation inviting applications from the eligible candidates for the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani and the applicant participated in the said recruitment process along with others. He has also admitted the fact that the applicant appeared for written examination and passed the said examination successfully and therefore, he is called for oral interview. He has admitted the fact that after conducting oral interview of the eligible candidates, he

published list of selected candidates and as per select list, Shri Satish Rathod was the only selected candidate. It is his contention that Shri Satish Rathod secured 84 marks. He stood first in the merit and therefore, he declared as selected candidate for the appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. It is his contention that as Shri Satish Rathod was selected as Police Patil, he was appointed on the said post accordingly. On 08.03.2016, Shri Satish Rathod joined the post accordingly, but on 01.07.2016 he tendered his resignation. He has admitted the fact that the applicant secured 71.2 marks and he stood second in the merit list. It is his contention that for the recruitment of Police Patil, the Government of Maharashtra, Home Department, issued guidelines vide G.R. dated 22.08.2014 and as per the clause 4 of the guidelines, if any candidate is selected for the post of Police Patil, then that select list will be valid only for one year and after one year the same will be lapsed. It is his contention that Shri Satish Rathod was appointed accordingly on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, on merit. It is his contention that there is no provision to appoint the candidate who stood second in merit list on the vacant post after resignation of the candidate, who has been appointed and worked on the post of Police Patil. It is his contention that as per the procedure, he has

to fill up the vacant post on resignation by the Police Patil appointed on the said post by inviting applications by issuing fresh advertisement and there is no provision to appoint a candidate, who stood second in merit on vacancy arose due to resignation of appointed candidate. He has submitted that he has rejected the application of the applicant by recording reasons and therefore, there is no illegality in the impugned order.

5. I have heard Shri Sandip Rathod, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

6. Admittedly, the applicant is resident of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. He is belonging to Banjara caste, which comes under VJNT category. Admittedly, the respondent No. 3 issued publication/proclamation in the year 2015, inviting applications from the eligible candidates for the appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. Admittedly, the applicant, Shri Satish Rathod and other eligible candidates appeared for written and oral examinations. The applicant, Shri Satish Rathod and other two candidates have been called for oral interview by the recruitment committee and accordingly, they appeared before it.

Their oral interview had been conducted by the respondent No. 3 and others. On conclusion of the oral interview, the respondent No. 3 published a list of the marks secured by the candidates in oral and written examinations. As per the list, Shri Satish Rathod secured 84 marks and he stood first in the merit list; while the applicant secured 71.2 marks in aggregate. As Shri Satish Rathod secured highest marks, the respondent No. 3 declared him as selected candidate and appointed him on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani by order dated 08.03.2016. Accordingly, Shri Satish Rathod joined the post and he worked as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. On 01.07.2016 Shri Satish Rathod tendered his resignation, as he secured job in Government office. Because of the resignation of Shri Satish Rathod, the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani fell vacant. Admittedly, the applicant moved an application dated 25.07.2016 and prayed to appoint him as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, as he stood second in merit list and he was in the waiting list. His application came to be rejected by the respondent No. 3 on 28.07.2016 by recording reasons that there is no provision to appoint a candidate, who stood second in merit list, after resignation of the selected candidate, who resigned from the post of Police Patil.

7. Learned Advocate for the applicant has submitted that the respondent No. 3 prepared a merit list after conclusion of the oral interview of the candidates and as per the said merit list, Shri Satish Rathod secured 84 marks and the applicant secured 71.2 marks in aggregate. He has submitted that Shri Satish Rathod was selected as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, as he secured highest marks in the examination. The name of the applicant appeared at Sr. No. 2 second in the merit list. He has submitted that Shri Satish Rathod joined the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani and within few months, he resigned from the said post on 01.07.2016, as he secured another job in Government Department. He has submitted that the name of the applicant was at Sr. No. 2 in the merit list and he was in the waiting list. Therefore, he is entitled to get appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, which became vacant due to resignation tendered by Shri Satish Rathod.

8. Learned Advocate for the applicant has also submitted that the respondent No. 3 illegally rejected the application of the applicant by impugned order dated 28.07.2016 on the ground that there is no such provision in the Police Patil recruitment Rules. He has submitted that the same issue was involved in

case of **Mahadu s/o Shyamrao Pawar reported in 2016 (3) Mh.L.J. 255** in **W.P. No. 1274 of 2015** decided on 01.02.2016, before the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad, wherein the Hon'ble High Court allowed the W.P. and appointed the candidate, who was first in the waiting list on resignation tendered by selected candidate. He has submitted that the principles laid down in the said decision are applicable in the instant case and therefore, he prayed to allow the present Original Application.

9. Learned Presenting Officer has submitted that the request made by the applicant is not maintainable, as there is no provision in the recruitment Rules of Police Patil, to appoint the candidate, who stood second in the merit list, as per the merit list on resignation tendered by the candidate, who was selected and appointed on the post of Police Patil. He has submitted that no waiting list for the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani has been prepared in view of the Recruitment Rules of Police Patil, as well as, advertisement published by the respondent No. 3 in the year 2015. He has submitted that the guidelines have been issued by the Home Department vide G.R. dated 22.08.2014 and it has been mentioned therein that the select list has to be prepared on the

basis of highest marks secured by the candidates and the candidate securing highest marks, shall be declared as selected candidate. The said select list will be valid for one year and thereafter it will be lapsed automatically. It has specifically mentioned in the guidelines that the select list has to be prepared for one candidate for a post. He has submitted that no waiting list has been prepared by the respondent No. 3 and therefore, no question of appointing the applicant arises. He has argued that the principles laid down in the decision referred by the learned Advocate for the applicant is not attracted in the instant case, as the name of the present applicant is not in the waiting list and no such waiting list has been prepared by the respondent No. 3. Therefore, he prayed to reject the present Original Application.

10. On perusal of the documents on record, it reveals that in view of the advertisement issued in the year 2015, the applications were invited from the eligible candidates by the respondent No. 3 for the appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. It has been specifically mentioned therein that the candidate, who secured highest marks in aggregate, will be declared as selected candidate. The guidelines dated 22.08.2014 issued by the Home Department, Government of Maharashtra, shows that the

candidates securing highest marks will be eligible for the appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani and the select list will be valid for one year and thereafter, it will be lapsed automatically. The select list has to be prepared in the ratio of one candidate for one post. The said condition is specifically mentioned therein, which is as follows:-

*“४. निवडसूची एक वर्षासाठी वैध राहिल. त्यानंतर ती व्यपगत होईल. निवडसूची तयार करताना एका पदासाठी एक उमेदवार या प्रमाणात तयार करण्यात यावी.”*

Neither the advertisement, nor the guidelines provides, to prepare waiting list of the candidates for the appointment on the post of Police Patil. As per the directions of Home Department, the name of a single candidate has to be declared as selected candidate for a post of Police Patil. According to the said guidelines and conditions in the advertisement, the respondent No. 3 conducted written and oral examination and prepared a marks list of selected candidate on the basis of marks secured by them in the written and oral examination. As per the said list, Shri Satish Rathod secured 84 marks; while the applicant Shri Nilkant Jadhav secured 71.2 marks. Shri Satish Rathod secured highest marks and therefore, he was declared as selected candidate and appointed on the post of Police Patil accordingly. No doubt, the applicant secured 71.2 marks and he stood second

in the merit list and therefore, his name has been mentioned at Sr. No. 2 in the said merit list. But the respondent No. 3 has not maintained the waiting list for the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani and the name of the applicant had not been recorded in the said waiting list. The name of the applicant stood second in merit list and not in the waiting list. Shri Satish Rathod was declared as eligible candidate and he was appointed on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani by the respondent No. 3 by appointment letter dated 08.03.2016. He joined the post accordingly and on joining the post as Police Patil by Shri Satish Rathod, the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani had been filled. Therefore, no question of expiry of select list as mentioned in the Clause 4 of the guidelines issued by the Home Department arises. On 01.07.2016, Shri Satish Rathod resigned from the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani, therefore, the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani fell vacant. Neither the recruitment Rules nor the terms and conditions mentioned in the advertisement issued by the respondent No. 3, provides the candidate who stood second in the merit list, will be considered for the appointment on the post of Police Patil that became vacant

on resignation of the selected candidate, who was appointed as Police Patil. Therefore, in the absence of specific provisions in that regard, the applicant cannot be appointed on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani that fell vacant on account of resignation tendered by the selected candidate Shri Satish Rathod.

11. I have gone through the decision referred by the learned Advocate for the applicant. On going through the same, it reveals that in that case, the petitioner applied for the post of Parichar along with others. After completion of selection process, select list and waiting list have been prepared. The name of the petitioner was included in the waiting list at Sr. No. 1. The selected candidate resigned from the post and therefore, the petitioner is appointed on the vacant post from the Earthquake Affected Person Category. Considering the peculiar facts and circumstances of the case, the Hon'ble High Court allowed the W.P. and quashed the order passed by the concerned respondent and appointed the petitioner therein on the post of Parichar Class-IV (Peon), as his name was at Sr. No. 1 in the waiting list. The facts in that case are totally different than that of the facts in the present case. In the present case, no such waiting list has been prepared by the respondent No. 3 and therefore, no question

to mention the name of the applicant in the waiting list arises. As per the Rules, the only one candidate has to be selected for a post of Police Patil and accordingly, Shri Satish Rathod had been selected as Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani on merit. Therefore, the ratio laid down in that case is not attracted in this case and therefore, I do not find substance in the submissions advanced by the learned Advocate for the applicant in that regard.

12. In view of the facts and circumstances, the applicant has no right to claim appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani on the ground that the selected candidate resigned from the post of Police Patil and therefore, he is entitled to get appointment on the ground that he stood second in the merit list. The name of the applicant was not recorded in the waiting list and no such waiting list had been prepared by the respondent No. 3. As per the Recruitment Rules of Police Patil, if vacancy of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani arises because of resignation tendered by the selected and appointed candidate, the said vacancy has to be filled by starting fresh recruitment process publishing fresh advertisement inviting applications from the eligible candidates and therefore, the applicant is not entitled to

get appointment on the post of Police Patil of village Gaulwadi, Tq. Gangakhed Dist. Parbhani. The respondent No. 3 has rightly rejected the application of the applicant by recording sound reasons. There is no illegality in the impugned order dated 28.07.2016 issued by the respondent No. 3 and therefore, no interference is called for in the said order. There is no merit in the O.A. Consequently, it deserves to be dismissed.

13. In view of the discussions in foregoing paragraphs, the O.A. stands dismissed with no order as to costs.

**PLACE : AURANGABAD.**

**DATE : 22.03.2018.**

**KPB** S.B. O.A. No. 326 of 2017 BPP 2018 POLICE PATIL

**(B.P. PATIL)**  
**MEMBER (J)**