

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 850 OF 2016  
(Subject – Police Patil)**

**DISTRICT: AURANGABAD**

**Shri Anand s/o Sheshrao Gavali,** )  
Age: 27 years, Occu. : Police Patil, )  
of village Ambelohal, Tq. Gangapur, )  
R/o At Post Ambelohal, )  
Tq. Gangapur, Dist. Aurangabad. ) .. **APPLICANT**

**V E R S U S**

1) **The Collector, Aurangabad,** )  
Dist. Aurangabad. )

2) **The Sub Divisional Officer/** )  
**Magistrate,** )  
Aurangabad. )

3) **The Commissioner of Police,** )  
Aurangabad ) .. **RESPONDENTS**

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**APPEARANCE** : Shri S.D. Joshi, Advocate for the Applicant.

: Shri M.P. Gude, Presenting Officer for the  
Respondents.

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

**DATE : 18.04.2018.**

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**O R D E R**

1. The applicant has challenged the communication dated 13.09.2016 issued by the respondent No. 2 by which he has directed the applicant to produce new character certificate issued by the competent authority, failing which his appointment on the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist.

Aurangabad will be cancelled by filing the present Original Application.

2. The applicant is resident of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. He possesses agricultural land at village Ambelohal. On 10.03.2016, the respondent No. 2 issued a notification/advertisement No. 01/2016 inviting applications from the eligible candidates for filling up the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. In response to the said advertisement/ notification, the applicant applied for the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. The applicant has filed the character certificate issued by the Commissioner of Police, Aurangabad on 09.04.2016 after due verification along with form. He participated in the recruitment process. He has passed written examination and oral interview. He secured 80 marks in aggregate and he stood first in the merit. Since the applicant secured highest marks, he was declared as selected candidate for the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. Accordingly, he was appointed as Police Patil by the respondent No. 2 by appointment letter dated 18.08.2016. The applicant joined his duty as Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad and he had hardly completed a month on the said post. On 13.09.2016, the respondent No. 2 issued a communication to the

applicant on the basis of communication dated 29.08.2016 received to him from the office of Commissioner of Police Aurangabad stating that the applicant did not furnish necessary information, while submitting character certificate and therefore, the Commissioner of Police, Aurangabad made enquiry and cancelled the character certificate dated 09.04.2016 issued in favour of the applicant. By the communication dated 13.09.2016, the respondent No. 2 called upon the applicant to furnish new/fresh character certificate within a period of 30 days from the date of receipt of show cause notice, failing which, his appointment of the Police Patil will be cancelled. The said communication was received by the applicant on 08.10.2016. Thereafter, the applicant made representation with the respondent No. 2 in the form of reply and submitted that the criminal case has been registered against him in the year 2011 for the offence punishable u/s 294, 504, 506, 427, 120(B), 447 and 323 of I.P.C. on the basis of complaint filed by one Shri Santosh Nanasaheb Jadhav. The Police of Gangapur Police Station made investigation in the crime and on conclusion of the investigation, submitted 'B' Summary Report to the Court of J.M.F.C. Gangapur on 03.03.2012. Therefore, the applicant was under perception that the report might have been accepted by the J.M.F.C. Gangapur and under that impression he had not submitted any information about the case in the form filled by him. It is his

contention that when he applied with the Commissioner of Police Aurangabad for issuance of the character certificate, the Commissioner made enquiry and verified the fact and issued the character certificate on 09.04.2016, but thereafter, cancelled the said character certificate without issuing any notice to the applicant. On the basis of it, the respondent No. 2 issued the impugned communication dated 13.09.2016, which is unjust, improper, arbitrary and bad in law. Therefore, he prayed to quash the communication dated 13.09.2016 by allowing the present Original Application.

3. The respondent Nos. 1 and 2 have filed their affidavit in reply and resisted the contention of the applicant. It is their contention that the respondent No. 2 had issued communication dated 13.09.2016 on the basis of communication received from the office of Commissioner of Police, Aurangabad on 29.08.2016 cancelling the character certificated issued by him in favour of the applicant. It is their contention that on receiving the communication from the respondent No. 3 i.e. the Commissioner of Police, Aurangabad, the respondent No. 2 directed the applicant to produce new character certificate within a period of 30 days, failing which the order of appointment as Police Patil will be cancelled. It is their contention that there is no illegality in the said communication and therefore, they supported the action

taken by the respondent No. 2 in that regard and on these grounds, they prayed to dismiss the present Original Application.

4. The respondent No. 3 has filed his affidavit in reply and resisted the contention of the applicant. It is his contention that the applicant had concealed true facts, while obtaining the earlier character certificate. He had not disclosed the fact that the criminal case was pending against him. He deliberately kept the relevant portion blank with ulterior intention to suppress the material fact. On the basis of information supplied by the applicant, the character certificate dated 09.04.2016 had been issued by respondent No. 3 i.e. the Commissioner of Police Aurangabad, inadvertently. But thereafter, respondent No. 3 received communication from M.I.D.C. Police Station, Waluj regarding the offence registered against the applicant on 05.12.2011. He verified the fact and thereafter cancelled the earlier character certificate dated 09.04.2016 and informed the same to the respondent No. 2 by communication dated 29.08.2016. It is his contention that the applicant intentionally suppressed the said fact of pendency of criminal case and got appointed on the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. It is his contention that the criminal cases bearing M. Case No. 11/2011 u/s 394, 504, 143, 147, 149, 427, 120 (B), 447, 324 under I.P.C. and u/s 3(i) of S.C.

and S.T. Act 1989 is registered against the applicant in the Court of Hon'ble Addl. Dist. & Session Judge at Vaijapur bearing case No. 75/2013. It is his contention that he has cancelled the character certificate dated 09.04.2016 on the basis of pendency of criminal case and there is no illegality and therefore, he supported the impugned order. Therefore, he prayed to dismiss the present O.A.

5. I have heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.P. Gude, 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 Ambelohal, Tq. Gangapur, Dist. Aurangabad and possesses agriculture land there. In pursuance of the advertisement/notification dated 10.03.2016 issued by the respondent No. 2, the applicant along with others applied for the appointment on the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. He participated in the recruitment process. He appeared and succeeded in written examination and was called for oral interview. He secured highest marks i.e. 80 marks in aggregate and therefore, he was declared as selected candidate for the appointment on the post of Police Patil of village Ambelohal, Tq. Gangapur, Dist. Aurangabad. While submitting application,

the applicant has submitted the character certificate dated 09.04.2016 issued by the Commissioner of Police, Aurangabad. After verifying the documents, the respondent No. 2 issued appointment order to the applicant on 18.08.2016. Accordingly, the applicant accepted the job and joined his duties. There is no dispute about the fact that on 29.08.2016 the respondent No. 3 issued communication to the respondent No. 2 and informed that he has cancelled the earlier character certificate dated 09.04.2016 issued in favour of the applicant, as the applicant has suppressed the material fact regarding pendency of the criminal case against him, while applying for character certificate. On the basis of said communication, the respondent No. 2 had issued impugned communication dated 13.09.2016 to the applicant and called upon him to furnish new/fresh character certificate within a period of 30 days, otherwise his appointment will be cancelled. In response to the notice, the applicant had given reply and explained the fact as to why he had not mentioned the pendency of criminal case.

7. Learned Advocate for the applicant has submitted that a criminal case for the offence punishable u/s 294, 504, 506, 427, 120(B), 447 and 323 of I.P.C. and u/s 3(i) of SC and ST Act 1989 was registered against the applicant and others bearing Case No. 75/2013 on the basis of complaint filed by one Santosh

Nanasaheb Jadhav with Gangapur Police Station. The Police made investigation in the crime and submitted 'B' Summery Report in the Court of J.M.F.C. Gangapur on 03.03.2012. He has argued that the applicant was under impression that the report might have been accepted by the Court and the criminal case might have been disposed of accordingly and therefore, he had not mentioned the said fact in the application filed by him while applying the character certificate. He has submitted that in fact, the Police had come to know that there was no truth in the complaint after making investigation in the crime and therefore, submitted B Summery Report in the matter. He has submitted that there is no ill intention on the part of the applicant for not mentioning the said fact. He has further argued that the respondent No. 3 had not issued notice to the applicant before cancelling the character certificate dated 09.04.2016 and no opportunity was given to the applicant to explain all these facts and therefore, the order of cancellation of character certificate issued by the respondent No. 3, as well as, the impugned order dated 13.9.2016 issued by the respondent No. 2 on the basis of said cancellation of character certificate are illegal and therefore, he prayed to allow the present Original Application.

8. Learned Presenting Office has submitted that the applicant has suppressed the material fact regarding pendency of



criminal case and obtained character certificate from the respondent No. 3 on 09.04.2016. But thereafter, on the basis of report submitted by the MIDC Police Station, Walunj, the respondent No. 3 verified the facts and cancelled the character certificate dated 09.4.2016. He has submitted that the respondent No. 2 had received the communication from the respondent No. 3 and thereafter, the respondent No. 2 issued impugned show cause notice to the applicant and directed him to produce new/fresh character certificate within a period of 30 days. He has submitted that there is no illegality in the communication issued by the respondent No. 2 and therefore, he prayed to dismiss the present Original Application.

9. On perusal of the record, it reveals that admittedly, the applicant obtained earlier character certificate from the respondent No. 3 without mentioning the fact that the criminal case was pending against him in the Criminal Court at Gangapur, but subsequently, the respondent No. 3 came to know that the criminal case was pending against the applicant and the applicant suppressed the said fact while obtaining character certificate dated 09.04.2016 and therefore, he cancelled the earlier character certificate dated 09.04.2016 issued in favour of the applicant. On the basis of communication received from the respondent No. 3, the respondent No. 2 issued communication

dated 13.09.2016 and directed the applicant to produce new/fresh character certificate, since previous character certificate issued by the respondent No. 3 had been cancelled. He had given 30 days' time to the applicant to produce the same. The action taken by the respondent No. 2 is just and proper and he has given 30 days' time to the applicant, which is reasonable time to produce the fresh/new character certificate by issuing impugned order/notice dated 13.09.2016. An opportunity was given to the applicant to explain situation and facts and to produce new certificate. Therefore, in my view, there is no illegality in the impugned order dated 13.09.2016 issued by the respondent No. 2. Instead of producing the new character certificate and explaining the said fact to the respondent No. 2, the applicant approached this Tribunal. The respondent No. 2 had informed the applicant by the said communication that if he fails to produce new character certificate within a period of 30 days, then appropriate order regarding cancellation of appointment of the applicant on the post of Police Patil will be passed. There is no illegality in the said communication issued by the respondent No. 2. On the contrary, opportunity of being heard has been given to the applicant. The respondent No. 2 has followed the principles of natural justice by giving the said opportunity to the applicant. Therefore, in these circumstances, in my opinion, there is no just ground to quash and set aside the impugned order dated

13.09.2016. There is not merit in the present Original Application. Consequently, it deserves to be dismissed.

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

**PLACE : AURANGABAD.**  
**DATE : 18.04.2018.**

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

**KPB** S.B. O.A. No. 850 of 2016 2018 POLICE PATIL