

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 318 OF 2016**

**DISTRICT: JALGAON**

Shri Nivrutti S/o Eknath Wagh,  
Age: 35 years, Occu. : Bussiness,  
R/o Kakode Post Kurha, Tq. Muktainagar,  
Dist. Jalgaon.

.. **APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Principle Secretary,  
Home Department,  
Mantralaya, Mumbai.
- 2) The Collector,  
Collector Office,  
Jalgaon.
- 3) The Sub Divisional Officer,  
Bhusawal, Tq. Bhusawal,  
Dist. Jalgaon.
- 3) Shri Rahul S/o Ramdas Roundalkar,  
Age:- 26 years, Occu.:- Business,  
R/o Kakode Post Kurha, Tq. Muktainagar,  
Dist. Jalgaon

.. **RESPONDENTS**

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APPEARANCE : Shri C.T. Jadhav, learned Advocate  
for the Applicant.

: Smt. Resha S. Deshmukh, learned Presenting  
Officer for the Respondent nos. 1 to 3.

: Shri S.D. Joshi, learned Advocate for  
respondent no. 4.

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**CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**  
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**J U D G M E N T****(Delivered on this 30<sup>th</sup> day of January, 2017.)**

1. Heard Shri C.T. Jadhav, learned Advocate for the applicant, Smt. Resha S. Deshmukh, learned Presenting Officer for the respondent nos. 1 to 3 and Shri S.D. Joshi, learned Advocate for respondent no. 4.

2. The applicant seeks to challenge the select list dated 6.4.2016, published by the respondent no. 3, to the extent of village Kakode, Tq. Muktainagar Dist. Jalgaon, and consequential selection/appointment of respondent no. 4 on the post of Police Patil of the said village. It is claimed that the said selection list be quashed and set aside and it be declared that the respondent no. 4 is not eligible to participate in the recruitment process of Police Patil being associated with a political party.

3. The recruitment process of appointment for the post of Police Patil of village Kakode, Tq. Muktainagar Dist. Jalgaon and other villages, has been initiated in view of the advertisement No. 1/2015 dated 02.11.2015. The date of online submission of forms was to start on 3.11.2015 from 10.00 a.m. and the last date for online submission of forms was 19.11.2015 till 5.30 p.m. Admittedly, the applicant as well as respondent no. 4 participated

in the recruitment process. The written examination was conducted on 13.12.2015. Preliminary list of candidates eligible for oral examination was declared and the candidates were directed to attend for order interview and after written examination, the candidates were called for scrutiny of their documents on 14.01.2016. Interviews were conducted on 6.4.2016.

4. On 12.04.2016, the applicant came to know that the respondent no. 4 was associated with a political party and was actively taking part in the political affairs and therefore, he filed objection before the Sub Divisional Officer, Bhusawal i.e. respondent no. 3. However, no cognizance was taken and hence, this Original Application.

5. The respondent Nos. 1 to 3 have justified the selection of respondent no. 4. It is stated that as per Government Resolution dated 7.9.1999 Home Department, Government of Maharashtra and in view of Rule 5 of the Maharashtra Civil Services (Conduct) Rules, 1979, Police Patil cannot participate in politics or Assembly Election or any local election after he resumes the post of Police Patil. The respondent no. 4 at the time of appointment was not associated with any political party. His participation was never

objected by the respondents, till the result was declared. In any case, the applicant got 59 marks and stands at Sr. No. 3 and therefore, he is not entitled to claim any relief.

6. The respondent no. 4 has filed affidavit in reply and admitted that he was Member of B.J.P and such membership was registered by him under special scheme by giving miscall on particular toll free number of the B.J.P. The advertisement was published on 2.11.2015 and the last date of filing of application was 19.11.2015. The respondent no. 4 therefore, tendered his resignation for the membership of the B.J.P. to the Taluka President, Muktainagar on 4.11.2015 and his request was accepted on 6.11.2015. The respondent no. 4 filled up his application on 19.11.2015 and on that date, he was not Member of any political party and nothing false has been stated by the respondent no. 4.

7. From the facts discussed in forgoing paragraphs, it will be thus crystal clear that the respondent no. 4 is not denied the fact that he has applied for membership of B.J.P. by giving miscall on particular toll free number. It seems that the respondent no. 4 has filled up an application for the post of Police Patil on 19.11.2015. However, on that date the respondent no. 4

was not Member of any political party i.e. B.J.P. The respondent no. 4 has filed affidavit in this regard and has filed documentary evidence along with his affidavit. In fact, the Annexure R-1, which is filed at paper book page no. 62 is request letter filed by the respondent no. 4 to the Taluka President, B.J.P., Muktainagar, in which the respondent no. 4 requested the Taluka President to cancel his membership. Thus, the respondent no. 4 has resigned his membership of B.J.P. on 4.11.2015 as per Annexure R-1. His request has been accepted by the B.J.P. vide communication dated 6.11.2015. The copy of which is placed on record at paper book page no. 63. The resignation has been accepted from 4.11.2015. Thus, it seems that on the date of filing of application, the respondent no. 4 was not Member of B.J.P.

8. The learned Advocate for the applicant submits that as per Condition No. 16 of the advertisement, if the candidates files false affidavit or conceal information, action can be taken against him as regards his cancellation of appointment. The said condition reads as under:-

*“१६. निवड प्रक्रिया सुरु झाल्यानंतर किंवा नियुक्तीनंतर कोणत्याही क्षणी उमेदवाराने अर्जात दिलेली माहिती अगर कागदपत्रे खोटी सादर केल्याचे किंवा खरी माहिती दडवून ठेवल्याचे निदर्शनास आल्यास त्या उमेदवारांची उमेदवारी/नियुक्ती रद्द करण्यात येईल व शासनाची दिशाभूल केल्यामुळे त्यांच्यावर कायदेशीर कारवाई करण्यात येईल.”*

9. According to the learned advocate for the applicant, the respondent no. 4 has filed affidavit and in the affidavit he mentioned that he was not Member of any political party. I have carefully gone through the affidavit filed by the respondent no. 4 on which the learned Advocate for the applicant has placed reliance. There are two affidavits i.e. one is dated 5.1.2016 and another is dated 13.01.2016. The same are at paper book page no. 32 and 33 (both inclusive) and page no. 35 respectively. In these affidavits, the respondent no. 4 has declared that he was not concerned with any political party nor he was Member of any political party or not contested election. It is material to note that both these affidavits are filed in the month of January, 2016 as already stated. The respondent no. 4's resignation was accepted vide communication dated 6.11.2015 and, therefore, it cannot be said that the respondent no. 4 was Member of any political party i.e. B.J.P. on the date of filing of these affidavits. In such circumstances, it cannot be said that the false affidavits have been filed by the respondent no. 4.

10. As per condition No. 6 of the advertisement it is mentioned as under:-

*“६. उमेदवार कोणत्याही राजकिय पक्षाशी संबंधित नसावा. त्या बाबतचे रूपये १०० च्या स्टॅम्प पेपरवरील प्रतिज्ञापत्र कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.”*

11. This condition shows that at the time of submitting documents at the time of verification, candidate has to file affidavit that he has not been related to any political party. As already stated that the affidavits submitted by the respondent no. 4 are dated 5.1.2016 and 13.01.2016. Admittedly, on that date the applicant was not Member of B.J.P. as claimed by the applicant, since his resignation was already accepted by the Taluka President of B.J.P. on 6.11.2015. I therefore, do not find any merits in the contention that the respondent no. 4 was Member of B.J.P. or that he has filed false affidavits as contended.

12. In the affidavit in reply of respondent nos. 1 to 3, there is a mention of G.R. dated 7.9.1999 and Rule 5 of the Maharashtra Civil Services (Conduct) Rules, 1979, Police Patil cannot participate in politics or Assembly Election or any local election after he resume the post of Police Patil. Thus, it is clear that the said Rule is applicable, if the person is appointed to the post of Police Patil and not prior to that and therefore, if respondent no. 4 was registered as a Member of B.J.P. prior to the advertisement, that itself will not disqualify the respondent no. 4, since he had already resigned from that post prior to filling application form for the post of Police Patil.

13. The learned Advocate for the applicant has placed reliance on judgment reported in **(2003) 2 Supreme 219 in the case of Kendriya Vidyalaya Sangathan and Others Vs. Ram Ratan Yadav** decided on 26.02.2003. The said case was as regards non-mention of pending criminal case. The facts are not analogues with the present set of facts.

14. The learned Advocate for the applicant then placed reliance on judgment reported in **(2015) 6 Mh.L.J. 393 in the case of Sunita Vs. The District Collector, Ahmednagar and Others**. In the said case, it has been held that the post of Police Patil is civil post and a person holding the post of Police Patil cannot take active part in politics and elections. As already stated, the said Rule will be applicable only if the person is appointed to that post and not prior to that. The learned Advocate for the applicant then placed reliance on the case reported in **2012 (5) Bom. C.R. 45 (Bombay High Court) in the case of Shriram Dattu Bhoyar Vs. Asok Kashinath Raut & Anr.** and in the said case in spite of a prohibition respondent took part in active politics. The same case is not here.

15. On a conspectus of discussion in foregoing paragraphs, it will be thus crystal clear that the applicant has



failed to prove that on the date of filing of application the respondent no. 4 was affiliated or Member of B.J.P., political party. The applicant has also failed to prove that the respondent no. 4 has filed false affidavit before the respondent no. 3 and therefore, following order:-

**ORDER**

The Original Application stands dismissed with no order as to costs.

**(J.D. KULKARNI)**  
**MEMBER (J)**

**KPB/S.B. O.A. No. 318 OF 2016 JDK 2017 Police Patil**