

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.1412 OF 2023**

**DISTRICT : KOLHAPUR  
SUB : Suspension**

Shri Deepak P. Pasanna, Aged 42 Years, )  
Worked as Police Patil, Village Valiwade, Tal. )  
Karveer, Dist. Kolhapur. )... **Applicant**

**Versus**

The Sub-Divisional Officer, Karveer Sub-Division)  
Kolhapur, having office at Kolhapur. )...**Respondents**

Shri A. V. Bandiwadekar, learned Advocate for the Applicant.

Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Hon'ble Shri M. A. Lovekar, Hon'ble Member (J)

Reserved on : 14.01.2025

Pronounced on : 16.01.2025

**JUDGEMENT**

Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. On receipt of a complaint from one Shri Vishwajit Digambare and some villagers against the Applicant who was working as Police Patil of Village Valiwade, Taluka Karveer, District Kolhapur, the Respondent issued a show cause notice dated 03.03.2023 to the Applicant. On his application dated 06.04.2023, the Respondent supplied copies of the complaint and annexures to the Applicant. The Applicant submitted a detailed reply and claimed to be innocent. The Respondents, by the impugned order dated 20.09.2023, imposed punishment of suspension

for six months on the Applicant provided under Section 9(d) of the Maharashtra Village Police Act, 1967. Hence, this Original Application.

3. Stand of the Respondent is that Crime No.125/2023 under Sections 323, 504 and 506 of IPC was registered against the Applicant at Gandhinagar Police Station and the Applicant had participated in “Bharat Jodo Yatra” which was a Political Rally and he was found to have worn a T-Shirt of “Bharat Jodo Yatra”.

4. The Applicant has raised following grounds :-

(1) The Respondents had no authority to pass the impugned order. Such order could have been passed only by Taluka Magistrate.

(2) Wearing a T-Shirt of “Bharat Jodo Yatra” cannot be said to be a misconduct.

(3) Section 9 of the Maharashtra Village Police Act, 1967, unlike the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, makes no distinction between ‘minor’ and ‘major’ penalties. Hence, it was incumbent upon the Respondent to first hold the departmental enquiry as provided under Rule 8 of ‘Rules of 1979’ and then proceed to consider imposition of punishment.

5. In support of ground No.1, the Applicant has relied on Section 9 and Section 11 of the Act of 1967 which read as under :-

*“9. Any Police-Patil or member of a village establishment liable to be called on or for the performance of Police duties, who shall be careless, or negligent in the discharge of his duties or guilty of any misconduct shall be liable to the following penalties, namely:—*

*(a) censure;*

*(b) recovery from his remuneration of the whole or part of any pecuniary loss caused to Government;*

*(c) fine, not exceeding his remuneration for a month;*

*(d) suspension, for a period not exceeding one year;*

*(e) removal from service, which shall not disqualify from future employment under Government;*

*(f) dismissal from service which shall ordinarily disqualify from future employment under Government.*

*Any of the penalties, mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub- Divisional Magistrate who is competent to make the appointment of the Police-patil.”*

*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.”*

Section 9 of the Act of 1967 provides for imposition of punishment. It states that any of the penalties mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub-Divisional Magistrate. The question of imposing any of these penalties would arise only on conclusion of departmental enquiry. Section 11 of the ‘Act of 1967’ on the other hand, provides for passing an order of suspension during the pendency of departmental enquiry or criminal trial. These powers vest in the District Magistrate and a Sub-Divisional Magistrate. The order of suspension as penalty and order of suspension which is issued on account of pendency of departmental enquiry are distinct. Therefore, a conjoint consideration of Sections 9 and 11 of the ‘Act of 1967’ would not be called for. On a plain reading of Section 9, it can be concluded that the Respondent was competent to pass the impugned order of penalty provided under Section 9(d) of the Act of 1967. So far as ground No.3 is concerned, the Applicant has relied on

the following observations in the judgment of this Tribunal in O.A.No.180/2023, dated 30.04.2023 **(Shri Mahadev Vasant Sapkal V/s Divisional Commissioner and 3 ors.)**. In this case, this Bench has held :-

“11. Whereas Rule 9A of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Services) Order, 1968 provides for procedure to be observed for imposing penalties which is as under:-

“9A - Procedure to be observed for imposing penalties:

*(1) No penalty shall be imposed on a Police Patil under clause (a) or (f) of Section 9 of the Act, unless the procedure prescribed in rule 55 or the Civil Services (Classification, Control and Appeal) Rules is followed.*

*(2) No penalty shall be imposed on a Police Patil under any other clause of the said Section 9, unless the procedure prescribed in rule 55A of the said rules is followed.”*

12. Notably, ‘Order of 1968’ has been later amended by Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions Services) (Amendment) Order, 1985 and in Clause 9A of ‘Order of 1968’ following amendments are done:-

“1. This order may be called the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) (Amendment) Order, 1985.

2. In clause 9A of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968:

*(a) In sub-clause (1), for the words, figures and brackets “rule 55 of the Civil Services (Classification, Control and Appeal) Rules”, the words, figures and brackets “rules 8 and 9 of the 8 O.A. No.180 of 2023 Maharashtra Civil Services (Discipline & Appeal) Rules 1979 shall be substituted.*

*(b) In sub-clause (2), for the words, figures and letter “rule 55A of the said rules”, the words, figures and brackets “rule 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 shall be substituted.”*

13. Thus in effect for imposing penalties, the procedure contemplated in Rule 8 and 9 of ‘D & A Rules of 1979’ is required to be observed scrupulously. Rule 8 and 9 of ‘D & A Rules of 1979’ provide for issuance of detailed charge-sheet with articles of charges, appointment of Enquiry Officer and recording of evidence of witnesses with opportunity of cross examination and to examine defence witnesses etc. Suffice to say, for imposing penalty, regular DE as contemplated under ‘D & A Rules of 1979’ is mandated”.

6. It is apparent that in the instant case, the procedure stipulated for departmental enquiry in the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 was not followed. This goes to the root of the matter rendering the impugned order unsustainable. In the result, the impugned order is quashed and set aside. No order as to costs.

**Sd/-**  
**( M. A. Lovekar)**  
**Member (J)**

Place: Mumbai  
Date: 16.01.2025  
Dictation taken by: V. S. Mane  
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