

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.571 OF 2024

**DISTRICT : PUNE
SUB : Suspension**

Shri Sham Kisan Parad, Aged 50 Years,)
Worked as Police Patil, R/o. Parunde, Tal.Junnar)
Dist. Pune.)... **Applicant**

Versus

1. The Sub-Divisional Officer, Manchar Pune.)
2. Sub Divisional Magistrate, Junnar -)
District Pune.)
3. The District Collector, Sangali.)....**Respondents**

Shri M. B Kadam, learned Advocate for the Applicant.

Shri D. R. Patil, learned Presenting Officer for the Respondents.

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

Reserved on : 13.01.2025

Pronounced on : 16.01.2025

JUDGEMENT

Heard Shri M. B. Kadam, learned Advocate for the Applicant and
Shri D. R. Patil, learned Presenting Officer for the Respondents.

2. On report of one Smt. Mandakini Pawar Crime No.380/2022 came to be registered at Junnar Police Station against the Applicant and others inter-alia under Sections 354(b) and 452 of IPC. She made a complaint against the Applicant to Respondent No.2 to take action against him. He was working as Police Patil of Village Parunde, Taluka Junnar. The Respondent No.2 inquired into the matter and passed the impugned order operative part of which reads as under :-

“१) निकालपत्रात नमूद केलेल्या कारणास्तव अर्जदार पांचा अर्ज मजूर करण्यात येत आहे.

२) जाब देणार श्री शाम किसन पराड, पोलीस पाटील पांचे वर गुन्हे दाखल पोलीस स्टेशन जुन्नर पांचेकडील गु.र. नोंद क्र. २४६/२०२० व गुन्हा नोंद क्र ३८०/२०२२ तक्रारी वरून गुन्हा नोंद केला आहे. कामध्ये भा.द.वि कलम २३४(ब), ४५२, ३२४, १०९, १४३, १४७, १४९, ३२३, ५०४, ५०६ अन्वये गुन्हा नोंद केला असून न्यायप्रविष्ट आहे. श्री शाम किसन पराड, पोलीस पाटील पांचे वर्तन हे पोलीस पाटील पदाला न शोभणारे आहे.

३) जाब देणार हे महाराष्ट्र ग्रामपोलीस अधिनियम १९६७ कलम ११ नुसार श्री शाम किसन पराड, पोलीस पाटील पांचा दाव्याचा अंतिम निकाल होईपर्यंत निलंबित करण्यात येत आहे.

४) खर्चाबाबत आदेश नाही.

Hence, this Original Application.

3. By filing Affidavit in Reply, the Respondent No.1 has supported the impugned order.

4. It was submitted by learned Advocate Shri M.B. Kadam for the Applicant that in view of Section 9(d) of the Maharashtra Village Police Act, 1967, the order directing suspension for an indefinite period or for a period exceeding one year cannot be sustained. Section 9 of the Act reads 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.”

In this case, the impugned order is passed not by way of punishment but on account of pendency of criminal case as provided under Section 11 of 'Act of 1967'. Section 11 reads as under :-

“ 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.”

The impugned order is consistent with aforequoted Section 11.

5. It was submitted by learned Advocate Shri M. B. Kadam for the Applicant that suspension, unless reviewed cannot extend beyond 90 days. In support of this submission, reliance is placed on “**(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)**”. Para 8 of this judgment reads as under :-

“8. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the Memorandum of Charges, and eventually culminate after even longer delay.

Further, in Para No.14, it is observed :-

“14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension.”

6. In the instant case, the impugned order is passed under Section 11 of the 'Act of 1967'. Constitutional validity of the said provision has not been called into question in this proceeding. Considering these two aspects, no interference with the impugned order is called for.

7. The Original Application is accordingly dismissed with 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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