

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 679 OF 2024

DISTRICT : NANDED

Kaveri Vyankatrao Landge,)
Age : 36 years, Occu. : Service : Police Patil)
(Appointed Candidate), Presently R/o. Shirsi (Kh.))
Taluka Kandhar, District Nanded.)

.... APPLICANT

V E R S U S

01. **The State of Maharashtra,**)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai – 400 032.)
02. **The District Collector,**)
Nanded, District Nanded.)
03. **The Sub-Divisional Magistrate/**)
The President of Police Patil)
Recruitment Committee, Kandhar,)
Taluka Kandhar, District Nanded.)
04. **Sujata Ramrao Somwanshi,**)
Age : 35 years, Occu. : Household)
(Second Wait list candidate),)
R/o Shirsi (Kh.), Taluka Kandhar,)
District Nanded.)

... RESPONDENTS

APPEARANCE : Shri Joslyn Menezes, counsel for applicant.

: Shri D.M. Hange, Presenting Officer for
respondent authorities.

: Shri H.P. Jadhav, counsel for respondent
No.4.

CORAM : **Shri A.N. Karmarkar, Member (J)**
RESERVED ON : **29.01.2025**
PRONOUNCED ON : **05.02.2025**

O R D E R

1. By filing the present Original Application, the applicant has prayed for quashing and setting aside the impugned order dated 24.06.2024, thereby the respondent No. 3 has allowed the objection of respondent No. 4 and cancelled the appointment of applicant. The applicant has also sought relief of setting aside impugned order dated 28.06.2024 passed by respondent No. 3, thereby appointing respondent No. 4 to the post of Police Patil in place of the applicant.

2. In response to the advertisement dated 01.01.2024, this applicant has applied for the post of Police Patil. The applicant and respondent No. 4 were held eligible for interview and subsequently this applicant was held to be eligible to the post of Police Patil. The respondent No. 4 was in the wait list. The respondent No. 4 has raised an objection dated 23.01.2024 informing about pendency of Criminal Cases against the present applicant. Criminal Cases were filed for the offence punishable

under Code of Criminal Procedure and for the offence punishable under Sections 498-A, 504, 506 read with 34 of Indian Penal Code. The respondent No. 4 is wife of cousin brother of applicant's husband. According to the applicant, prima-facie, she has no role in the alleged offence. The applicant is also obtained certificate regarding verification of character and antecedents given by the Superintendent of Police, Nanded and nothing adverse against the applicant was found. The wife of cousin brother of applicant's husband has actually performed second marriage and she has initiated some proceedings against her second husband under the provisions of Protection of Women from Domestic Violence Act, 2005 (in short DV Act). The applicant was called upon to explain in respect of objection of respondent No. 4. After hearing both the sides, the respondent No. 3 has passed impugned order dated 24.06.2024 cancelling appointment of the applicant to the post of Police Patil.

3. The said order is challenged under the ground that the impugned order is without mentioning any reasons. The advertisement does not show that the candidate will be barred from appointment to the post of Police Patil in case of pendency of Criminal Case. Merely on the basis of allegations and without

going into the details, the impugned order dated 24.06.2024 came to be passed.

4. Respondent No. 3 has filed affidavit in reply. According to this respondent, two candidates including the present applicant were selected for the oral examination and the list of shortlisted candidates for oral interview was published on 15.01.2024. List of selected candidates was published on 20.01.2024. The applicant was selected to the post of Police Patil of village Shirsi (Kh.), Tq. Kandhar, Dist. Nanded and respondent No. 4 was on wait list. Subsequently, Sub-Divisional Officer, Kandhar received objection from respondent No. 4- Sujata Ramrao Somwanshi dated 23.01.2024, thereby objecting the appointment of applicant due to pendency of RCC No. 8/2015 (Shobha Vs. Sanjay), which is filed against the applicant and her family members in the Court at Kandhar. An opportunity of hearing was given to both the sides. On scrutiny of papers, it was noticed that Criminal Case under Section 494, 109 of IPC in RCC No. 8/2015 and another case under Sections 498-A, 294, 504, 506 of IPC in RCC No. 37/2017 are pending against the applicant before the JMFC, Kandhar, Dist. Nanded. According to this respondent, the applicant should be of unblemished character. So the objection of respondent No. 4 about pendency

of criminal cases was accepted and the applicant's appointment order was cancelled.

5. Respondent No. 4 has also filed her affidavit in reply. It is stated that the applicant was selected for the post of Police Patil. This respondent has forwarded objection against the applicant for appointment of applicant on the ground of pendency of Criminal Case No. 8/2015 (Shobha Vs. Sanjay) under Sections 194 and 109 of IPC and another RCC No. 37/2017 under Sections 498-A, 294, 504, 506 of IPC. On cancellation of applicant's selection, this respondent No. 4 was appointed vide order dated 28.06.2024. According to her, the applicant has failed to disclose the fact of pendency of Criminal Cases. In view of Circular dated 26.08.2014, the applicant is not entitled for the appointment to the post of Police Patil due to concealment of fact of pendency of Criminal Cases. It is also contended that the respondent No. 3 has conducted summery enquiry and has rightly disqualified the applicant vide order dated 24.06.2024.

6. I have heard Shri Joslyn Menezes, learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for respondent authorities and Shri H.P. Jadhav, learned counsel for respondent No. 4.

7. Learned counsel for the applicant has submitted that as per clause No. 5 under the head of eligibility criteria for the post of Police Patil in advertisement dated 01.01.2024 (page No. 21 of paper book) and clause No. 4 under the head of selection procedure, terms and conditions on the same page (page no. 21) the candidates should be good character. According to him, the applicant has already forwarded Police Verification Report obtained from the office Superintendent of Police, Nanded and nothing adverse against the applicant was found on Police record. According to the applicant, mere pendency of Criminal Cases, will not make the applicant ineligible in view of the order passed by this Tribunal in **O.A. No. 718/2024 (Rahul Avinash Pawar Vs. The State of Maharashtra and Ors.)**. Secondly no specific role of the present applicant is given in the alleged criminal cases. The applicant has also invited my attention to the Government Circular dated 26.08.2014, wherein illustrative list of offences is given, on which basis the concerned authority would consider the candidature for the appointment to the post of Group-C and Group-D in the Government service. Learned counsel for the applicant has also submitted that the respondent No. 3 has not passed the reasoned order while passing the impugned order dated 24.06.2024.

On the other hand, learned Presenting Officer has submitted that the objection of respondent No. 4 was decided by giving an opportunity of hearing to both the sides. The order passed in O.A. No. 83/2024 is not helpful for the applicant, as there is a reference of Criminal Case under Section 354 of IPC in it. According to him, it is expected from the candidate to give correct information.

Learned counsel for respondent No. 4 has submitted that as per the advertisement, the candidate should be of good moral character. According to him, the respondent No. 4 has specifically mentioned in her objection about the details of Criminal Cases pending against the applicant. Those are still pending. The applicant has not disclosed about this fact while filing application form for the post of Police Patil. The respondent No. 3 has conducted detailed enquiry in respect of her objection. In support of his contentions, learned counsel has placed reliance on the following cases laws :-

- (i) Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Rajendra @ Raju S/o Sheshrao Dalvi Vs. The State of Maharashtra and Ors. in W.P. No. 8623/2014.**
- (ii) Hon'ble High Court of Judicature at Allahabad in a case of **Satyendra Singh Vs. State of U.P. and Ors. in W.P. No. 16791/2023.**

- (iii) Principal Seat of this Tribunal at Mumbai in a case of **Bhausahab L. Kandekar Vs. The State of Maharashtra and Ors. in O.A. No. 970/2016.**
- (iv) Hon'ble High Court of Karnataka at Bengaluru in a case of **Sri Palaksha S.S. S/o Sri. Shivanna Vs. The State and Ors. in Criminal Petition No. 1644/2022.**

8. It is undisputed fact that the applicant was selected to be appointed for the post of Police Patil of village Shirsi (Kh.), Tq. Kandhar, Dist. Nanded and respondent No. 4 was on wait list. It appears that the list of selected candidates was published by the respondents on 20.01.2024. This respondent No. 4 has filed objection application to respondent No. 3-S.D.O., Kandhar informing that the applicant is ineligible to the post of Police Patil, since Criminal Cases for the offence punishable under Section 498-A and under Section 494 of IPC are pending against her. According to respondent No. 4, the candidate to be appointed for the post of Police Patil, should be of good character as per the advertisement. The respondent No. 3-S.D.O., Kandhar has given opportunity of hearing to the applicant and respondent No. 4. He has accepted objection of respondent No. 4 and appointment order of the applicant for the post of Police Patil of village Shirsi (Kh.), Tq. Kandhar, Dist. Nanded has been cancelled vide order dated 24.06.2024. It is to be decided as to whether the impugned order passed by respondent No. 3-SDO,

Kandhar accepting the objection and holding applicant ineligible to the post of Police Patil is just, proper and legal?

9. Both the sides have referred clause No. 5 under the head of eligibility criteria for the post of Police Patil in advertisement dated 01.01.2024 and clause No. 4, which is pertaining to selection procedure, terms and conditions. Clause No. 5 referred above shows that the candidate should be physically fit and should have good character. Both the clauses referred above are reproduced as under :-

“पोलीस पाटील पदासाठी किमान आवश्यक अर्हता :-

- ५) अर्जदार शारीरिकदृष्ट्या सक्षम असावा व अर्जदाराचे चरित्र निष्कलंक असणे आवश्यक आहे.

निवड कार्यापद्धती, अटी व शर्ती :-

४. अर्जदाराचे चरित्र निष्कलंक असल्याबाबतचे संबंधीत पोलीस स्टेशनचे चरित्र प्रमाणपत्र कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.”

Clause No. 4 of the selection procedure suggests that in connection with the good character, the concerned candidate should file certificate from the concerned Police Station at the time of verification of documents. The said advertisement also shows that these documents of eligibility and other were expected to be produced before interview as per the selection procedure, terms and conditions. Since the applicant and

respondent No. 4 were participated in oral test/interview, it can be said that the applicant had produced certificate of character, which is obtained from the concerned Police Station. The applicant has also placed on record a copy of certificate issued by the office of Superintendent of Police, Nanded dated 17.01.2024. It shows that after conducting enquires with the Senior Inspector of Kandhar Police Station, it was revealed that there is nothing adverse against the applicant on police record.

10. It appears from the impugned order dated 24.06.2024 (Annexure-A) that the respondent-SDO, Kandhar has just mentioned the respective contentions of objector / respondent No. 4 and this applicant. On the basis of available documents, the SDO, Kandhar has just mentioned that one RCC No. 8/2015 is pending in the Court of Judicial Magistrate First Class, Kandhar against this applicant and therefore, he has cancelled the selection of the applicant for the post of Police Patil of village Shirsi (Kh.), Tq. Kandhar, Dist. Nanded.

It is not disputed that accused No. 9 Shital Siddarth Parde in RCC No. 37/2017 and the present applicant Kaveri Vyankatrao Landge is one and the same person. The applicant has placed on record a copy of certificate of registration of

marriage (page No. 65 of paper book), which shows that the present applicant got married to Siddarth Parde on 24.05.2009. As per clause No. 4 of the selection procedure, terms and conditions of the advertisement, the candidate was only expected to produce character certificate obtained from the concerned Police Station in respect of his/her character. So the applicant seems to have complied with the said clause.

Clause No. 3(e) of the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 (for short Order of 1968) pertains to Eligibility for Appointment, which reads as under :-

“3. Eligibility for appointment:- No person shall be eligible for being appointed as a Police patil, who-

- (a)*
- (b)*
- (c)*
- (d)*
- (e) is adjudged by the competent authority after a summary inquiry to be of bad character, or has, in the opinion of that authority, such antecedents as render him unsuitable for employment as Police-patil.”*

This clause No. 3(e) does not reveal that registration of any criminal case could be disqualification to appear in the recruitment process for the post of Police Patil. Even the

advertisement does not show that pendency of crime could be disqualification to be appointed to the post of Police Patil. This clause No. 3 (e) also suggest that a person shall not be eligible for the appointment as a Police Patil, who is adjudged by the competent after a summary inquiry to be of bad character, or has, in the opinion, such antecedents as render him/her unsuitable for employment as Police-patil. The impugned order doesn't reveal that summary enquiry was held. The impugned order does not show any specific reason, on which basis the SDO Kandhar come to the conclusion that the applicant is found unsuitable for the post of Police Patil.

11. Learned counsel for the applicant has also referred the judgment of this Tribunal in **O.A. No. 718/2024 (Rahul Avinash Pawar Vs. The State of Maharashtra and Ors.)** and submitted that the Hon'ble Supreme Court has held in a case of **Mohammed Imran V/s. State of Maharashtra & Ors. reported in AIR 2018 SC 4895**, that pending criminal cases, without a conviction, should not disqualify a candidate from public employment as it would violate the principles of natural justice and fairness. The impugned order also does not reveal that the respondent-SDO Khadhar has called any confidential report from the concerned Police Station pertaining to character verification

or antecedents of the applicant. This Tribunal has also referred above noted citation in a case of **Mohammed Imran V/s. State of Maharashtra & Ors.** (cited supra) in O.A. No. 718/2024 and held that mere pendency of such type of criminal case may not be enough to refuse appointment to the applicant on the post of Police Patil.

12. There is also Government Circular dated 26.08.2014, which is pertaining to guidelines for appointment of candidates in Government service on Group-C and Group-D post. Annexure-A with this Circular is illustrative list.

13. It appears from the affidavit reply of respondent No. 3 that one RCC No. 8/2015 for the offence punishable under Sections 494, 109 of IPC is pending against the applicant. Secondly another RCC No. 37/2017 for the offence punishable under Sections 498-A, 294, 504, 506 of IPC is pending against the applicant and others in the Court of JMFC, Kandhar. Serial No. 20 in Annexure-A attached with G.R. dated 26.08.2014 is pertaining to cruelty by husband or relatives. This Annexure suggest that in case candidate is found guilty for the said crime, then he/she is not to be appointed. Another allegation pertaining

to Section 494 is not referred in this Annexure-A. Annexure-A of said G.R. is reproduced as under for reference :-

Sr. No.	Crime Head	Candidates should be rejected on following criteria	
अ.क्र.	गुन्हा	उमेदवारास अपात्र ठरविण्याबाबत खालील निकष लागू राहतील	
1	Murder	Convicted	Pending Trial
	मनुष्यवध/हत्या	दोषी	प्रलंबित खटला
2	Attempt of commit murder	Convicted	Pending Trial
	खुनाचा प्रयत्न	दोषी	प्रलंबित खटला
3	Culpable homicide not amounting to murder	Convicted	Pending Trial
	सदोष मानवहत्येचा प्रयत्न	दोषी	प्रलंबित खटला
4	Rape	Convicted	Pending Trial
	बलात्कार	दोषी	प्रलंबित खटला
5	Kidnapping & abduction	Convicted	Pending Trial
	अपहरण	दोषी	प्रलंबित खटला
6	Dacoity	Convicted	Pending Trial
	दरोडा	दोषी	प्रलंबित खटला
7	Preparation assembly for dacoity	Convicted	Pending Trial
	दरोड्याच्या उद्देशाने एकत्र जमणे	दोषी	प्रलंबित खटला
8	Robbery	Convicted	Pending Trial
	लूटमारी	दोषी	प्रलंबित खटला
9	Burglary	Convicted	...
	चोरी/घरफोडी	दोषी	...
10	Theft	Convicted	...
	चोरी	दोषी	...
11	Riots	Convicted	...
	दंगल	दोषी	...
12	Criminal breach of trust	Convicted	...
	फौजदारी स्वरूपाचा विश्वासघात	दोषी	...
13	Cheating/Forgery	Convicted	...
	फसवणूक	दोषी	...
14	Counterfeiting	Convicted	Pending Trial
	लबाडी/बनावट दस्तावेज तयार करणे	दोषी	प्रलंबित खटला
15	Arson	Convicted	...
	मालमत्तेची नासधुस	दोषी	...
16	Grave Hurt	Convicted	Pending Trial
	गंभीर इजा/दुखापत	दोषी	प्रलंबित खटला
17	Dowry Death	Convicted	...
	हुंडाबळी	दोषी	...
18	Molestation	Convicted	...
	विनयभंग	दोषी	...
19	Sexual Harassment	Convicted	...
	लैंगिक अत्याचार	दोषी	...
20	Cruelty by husband or relatives	Convicted	...
	पती व त्याच्या नातेवाईकांकडून छळ	दोषी	...
21	Importation of girl	Convicted	...
	मुलीची तस्करी	दोषी	...

14. On perusal of the recitals of report pertaining to allegation about offence punishable under Section 494-A of IPC (page No. 56 to 61 of paper book), it seems that role of this applicant is not specified in detail. There is general allegation about instigation by this applicant and other relatives of accused No. 1 therein. In view of these facts, it will be difficult to accept that the impugned order passed by the respondent No. 3-SDO Kandhar dated 24.06.2024, thereby cancelling the selection of applicant, is improper and illegal. The said order is not supported by cogent reasons.

15. Learned counsel for respondent No. 4 has relied on the decision of the Hon'ble High Court of Bombay, Bench at Aurangabad a case of **Rajendra @ Raju S/o Sheshrao Dalvi** (cited supra) in connection with the allegations against the applicant. The facts in that case appear to be different, as in that matter apparently petitioner in it had two wives. The contention of the petitioner was that Smt. 'S' is not his second wife, but he has an affair with her. It was held that if it was second marriage, then it is the offence punishable under section 494 of I.P.C., which shows that he is not law abiding citizen. It is further held that if the admission of the petitioner is considered as it is, then

inference needs to be drawn that it is immoral activity. Since the facts are different, this citation is not helpful to the applicant.

16. The respondent No. 4 has come with a case that the applicant has failed to disclose pendency of offences against her and suppressed the said fact. It appears that the present applicant has given explanation to the notice issued by the SDO, Kandhar on the basis of objection raised by respondent No. 4, wherein she has mentioned about pendency of criminal cases.

Learned Presenting Officer has made available original record. I have perused the copy of online application form filed by the applicant. There is no specific clause in the application form so as to get information about pendency of any criminal case. So there is no question of concealment of fact of pendency of criminal cases as submitted by learned counsel for respondent No. 4. For that purpose, learned counsel for respondent No. 4 has relied on the decision of Hon'ble High Court of Judicature at Allahabad in a case of **Satyendra Singh** (cited supra), but in that matter there was a clause in the application form to intimate about registration of any crime and whether he is convicted or acquitted. So this case can be distinguished on fact. Similarly there was a specific clause in the cited case of **Bhausaheb L.**

Kandekar (cited supra) to mention whether the candidate has good character. Respondent No. 4 has also relied on the decision of Hon'ble High Court of Karnataka at Bengaluru in a case of **Sri Palaksha S.S.** (cited supra). In that matter also information was called from the candidate on the aspect whether the applicant is/was involved in any Civil/ Criminal/quasi-Judicial Proceedings in any capacity. There was another clause that in case, if any information furnished by the applicants in the application is found to be false, their candidature is liable for rejection. So both these citations are not helpful to the applicant, as the facts in it are also different.

17. Since it is held that the impugned order dated 24.06.2024 is held to be illegal, the subsequent order appointing respondent No. 4 on the post of Police Patil dated 28.06.2024⁵ can be said to be illegal, as the applicant got highest marks in selection process. Hence, I proceed to pass the following order :-

ORDER

- (i) The Original Application is hereby allowed.
- (ii) Impugned order of respondent No. 3 dated 24.06.2024, cancelling of selection of applicant to the post of Police Patil and impugned order dated 28.06.2024, thereby appointing

respondent No. 4 to the post of Police Patil, are quashed and set aside.

- (iii) Respondent No. 3 to appoint the applicant as Police Patil of village Shirsi, Tq. Kandhar, Dist. Nanded, if otherwise there is no any other impediment for such appointment, within six weeks from the date of this order.
- (iv) There shall be no order as to costs.
- (v) The original record shall be returned to the learned Presenting Officer forthwith.

(A.N. Karmarkar)
Member (J)

PLACE : Aurangabad
DATE : 05.02.2025

KPB S.B. O.A. No. 679 of 2024 VKJ Police Patil