

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1025 OF 2023
(Subject:- Police Patil)**

DISTRICT:- JALGAON

Smt. Sangita Baban Lonari,)
Age: 29 years, Occu: Household,)
R/o. Bhadali, Tq. Pachora, Dist. Jalgaon.)...**APPLICANT**

V E R S U S

1. The Collector,)
Jalgaon.)

2. The Sub-Divisional Magistrate,)
Pachora, Dist. Jalgaon.)

3. The Tahsildar Pachora,)
Dist. Jalgaon.)

4. Samadhan Mangal Patil,)
Age-30 years, Occu. Agril.,)
R/o Bhadali, Tq. Pachora, Dist. Jalgaon.)....**RESPONDENTS**

APPEARANCE : Shri N.N. Bhagwat, learned counsel for the applicant.

: Shri A.P. Basarkar, learned Presenting Officer for the respondent Nos. 1 to 3.

: Shri Niranjana V. Dhake, learned counsel holding for Shri Girish V. Wani, learned counsel for respondent No.4.

CORAM : **Shri A.N. Karmarkar, Member (J)**

DATE : **17.03.2025.**

ORDER

The applicant is seeking relief of setting aside the order dated 01.11.2023 (Annexure 'A-8') issued by respondent No.2 i.e. Sub-Divisional Magistrate, Pachora, Dist. Jalgaon, thereby appointing the respondent No.4 i.e. namely Samadhan Mangal Patil as Police Patil of village Bhadali, Tq. Pachora, Dist. Jalgaon.

2. According to applicant, the proclamation No. 23/2023 dated 13.07.2023 was published inviting applications for the post of Police Patil of different villages including village Bhadali, Tq. Pachora, Dist. Jalgaon. The applicant and the respondent No.4 have applied for the said post. The applicant submitted requisite documents. The applicant and the respondent No.4 were selected for interviews which were to be held on 25.08.2023 considering the marks obtained by them in written examination. On verification of documents, this applicant was informed that she is not eligible for the post.

3. According to applicant, the respondent No.4 has not complied with the condition in the advertisement by filing affidavit as required. It was condition in clause No.6 that at a time of filing application, the candidate should not be Member of Gram Panchayat or any other society and should not have concerned

with any political party. At a time of filing application the respondent No.4 was Member of Group-Gram Panchayat Vadgaon Mulane, Tq. Pachora, Dist. Jalgaon. In spite of it he has applied for the said post and has filed false affidavit. On 24.08.2023 the respondent No.2 –SDO sent letter to the Tahsildar, Pachora for inquiry as to whether the respondent No.4 is Member of Gram Panchayat. Inquiry was conducted by Circler Officer. It was revealed that the respondent No.4 was Member of Group-Gram Panchayat Vadgaon Mulane, Tq. Pachora, Dist. Jalgaon. After receiving the report, the respondent No.2 communicated to the respondent No.4 that he is not eligible for the post of Police Patil as he was Member of Gram Panchayat. On 14.09.2023, the respondent No.4 submitted application by referring one judgment of Hon'ble Supreme Court to respondent No.2 for appointing him as Police Patil. The respondent No.2 again directed Tahsildar to submit report about Gram Panchayat Membership of respondent No.4 on 13.10.2023. The applicant has raised ground that the impugned order is not sustainable. Secondly, the respondent No.4 was not eligible to submit application for the post of Police Patil as he was Member of Gram Panchayat.

4. The respondent Nos. 1 and 2 have filed their affidavit in reply (page No.37). They have not disputed about publication of proclamation on 18.07.2023. It is not disputed that the interviews

were held on 25.08.2023. They have contended that the post of Police Patil of village Bhadali was reserved for the candidate of OBC category. The present applicant had filed application from N.T. (B) category. Therefore, the respondent No.3 communicated the applicant that she is ineligible for the post of Police Patil for the said reason and so she was not called for interview. According to these respondents, on getting inquiry report from Tahsildar, respondent No.4 was communicated that he is not eligible for the post of Police Patil as he was Member of Gram Panchayat on the date of filing application. Then the present respondent No.4 filed application dated 14.09.2023. On that basis again respondent No.3 was directed to submit report regarding Gram Panchayat Membership of respondent No.4. Inquiry Officer has mentioned in the report that the respondent No.4 has submitted resignation on 22.08.2023 and was accepted on 25.09.2023. The respondent No.3 i.e. Tahsildar, Pachora has recommended for appointment of respondent No.4 to the post of Police Patil. After receipt of report dated 13.10.2023 from Tahsildar, the respondent No.2 i.e Sub-Divisional Magistrate, Pachora appointed the respondent No.4 to the post of Police Patil vide order dated 01.11.2023.

5. The respondent No.4 has filed affidavit in reply (page Nos. 45 to 49). According to him, it is matter of record that the applicant was not eligible to the post of Police Patil. He has denied

the contention in the application that he was not eligible to the post of Police Patil. He has submitted that he was Member of Group-Gram Panchayat Wadgaon Mulane, Tq. Pachora, Dist. Jalgaon. Before actual appointment, he has already resigned from the said post and it was accepted before appointment. His resignation from the post of Member Gram Panchayat was submitted on 22.08.2023 and since he was wrongly denied appointment, he has relied on the ruling of Hon'ble Supreme Court in a case of **Dnyaneshwar Bhikan Salunke Vs. Divisional Commissioner, Aurangabad Division, Aurangabad in Special Civil Appeal No. 2712/2019**. Considering the said judgment, the Sub-Divisional Officer has corrected the mistake and appointed this respondent to the post of Police Patil.

6. I have heard Shri N.N. Bhagwat, learned counsel for the applicant, Shri Niranjan V. Dhake, learned counsel holding for Shri Girish V. Wani, learned counsel for respondent No.4 and Shri A.P. Basarkar, learned Presenting Officer for respondent Nos. 1 to 3. They all have submitted as per their respective contentions.

7. Learned counsel for the applicant has only submitted that on the date of filing application, the respondent No.4 was the Member of Gram Panchayat and so his appointment is illegal. He

has also submitted that he has filed false affidavit (page No. 19). According to him this respondent No.4 has not mentioned in the affidavit that he was Member of Gram Panchayat. It is undisputed fact that the applicant was held ineligible to the post of Police Patil and she was communicated after verification of the documents. It is also undisputed fact that the interviews were held on 25.08.2023.

I will deal with only main objection of the applicant as to whether the appointment of respondent No.4 to the post of Police Patil is illegal as he was Member of Gram Panchayat on the date of filing application. An appointment of respondent No.4 to the post of Police Patil is not challenged on any other grounds.

8. As per the advertisement/proclamation firstly there will be written test. The candidate who gets requisite marks will be eligible for oral test/interview. The applicant is contended in the petition that the applicant and the respondent No.4 with other candidates came to be selected for interview which was scheduled on 25.08.2023. The respondents have not disputed the fact of selection of applicant and respondent No.4 for interview. The respondent Nos. 1 and 2 have contended that during verification it was noticed that the applicant has applied from N.T. (B) category, though the post of Police Patil was reserved for OBC category. So she was communicated about her ineligibility.

9. It appears that the Sub-Divisional Magistrate/Officer has called report from Tahsildar vide order dated 24.08.2023 as to whether the respondent No.4 is Member of Gram Panchayat. It appears that Tahsildar has intimated that he has already submitted his resignation on 22.08.2023 from the post of Group—Gram Panchayat Wadgaon Mulane, Tq. Pachora, Dist. Jalgaon. On the basis of said report, the respondent No.4 was communicated about eligibility from the process of appointment of Police Patil.

10. It is apparent that the respondent No.4 has filed application to Sub-Division Officer (page No. 27) referring the judgment of Hon'ble Supreme Court in a case of **Dnyaneshwar Bhikan Salunke** (cited supra) and the Sub-Divisional Officer was requested to appoint him on the post of Police Patil on the basis of said judgment. On the basis of it, Sub-Divisional Officer has again called information from Tahsildar vide order dated 25.09.2023 as to whether the resignation of respondent No.4 is accepted. The Tahsildar has communicated to Sub-Divisional Officer on 13.10.2023 that the resignation of respondent No.4 dated 22.08.2023 from the post of Gram Panchayat Member was accepted in monthly meeting dated 25.09.2023 vide resolution No.6. Gramsevak of village Wadgaon has also seem to have

informed the Collector, Jalgaon vide letter dated 03.10.2023 about vacancy of Member of Gram Panchayat due to resignation of present respondent No.4. So it appears that after acceptance of resignation, the respondent-Sub-Divisional Officer has appointed the present respondent No.4 to the post of Police Patil of village Bhadali, Tq. Pachora, Dist. Jalgaon vide order dated 01.11.2023.

11. The proclamation/advertisement does not show that there was ban for appointing the candidate who is Member of Gram Panchayat applied to the post of Police Patil. Clause No.3 of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 pertains to eligibility for appointment. Even this clause nowhere states that any candidate holding the post of Member of Gram Panchayat or any institute cannot apply for the post of Police Patil. There is no provision in 'Order 1968' to show that candidate should have been ceased to be member of Gram Panchayat on the date of filing of application itself. The respondent No.4 is particularly relied in a case of **Dnyaneshwar Bhikan Solanke** (cited supra). He has submitted that the Hon'ble Supreme Court has considered the circular dated 10.05.1983 and held that the an office bearer or member of a local body who is the candidate for a post of Police Patil may be considered for such post. The Hon'ble Supreme Court

in paragraph Nos. 13 and 14 of the said judgment has made following observations:-

“13. The petition was filed before the Tribunal questioning the appointment of the appellant. On 28.03.2016, he had resigned from the service as Member of Gram Panchayat, Amdabad and also as the Member of Zila Parishad School Managing Committee on 17.03.2016. He was appointed as Police Patil on 27.06.2016. In view of the instructions in paragraph 2 of the Circular dated 10.05.1983, which still holds the field, he ought to have resigned before he is appointed as Police Patil. He resigned before the appointment. Paragraph 2 of the aforementioned Circular is extracted hereunder:-

“The Police Patil of a village is Government’s resident representative in the village. Looking to his status, role and responsibilities he is not expected to involve himself in any political activity. In terms of Rule 5 of the Maharashtra Civil Services (Conduct) Rules, 1979 a Police Patil is precluded from taking part in politics or in an election to any legislature or local authority. A candidate for a post of Police Patil should not be a member or be otherwise associated with any political party or organization taking part in politics. An office bearer or member of a local body who is the candidate for a post of Police Patil may be considered for such post but he could be appointed Police Patil only on his actual designation from that body being effect.”

(Emphasis added)

14. In view of the aforesaid circular, which still holds field and as per the statement made by the learned counsel appearing on behalf of the State of Maharashtra, we have no hesitation to set aside the order passed by the Tribunal as well as by the High Court. Ordered accordingly. The appointment of appellant was illegally interfered with by the Tribunal and the appellant was rightly appointed to the post of Police Patil.”

So the Hon’ble Supreme Court has held that the Member of local bodies, who is the candidate for a post of Patil Patil may be considered for such post, but he could be appointed Police Patil only on his actual designation from that body being effect.

12. This Tribunal in **O.A. No. 114/2024 (Sow Gangasagar Balu Kokate @ Gangasagar Tukaram Sable Vs. State of Maharashtra and Ors.)**,

has observed as under by referring the judgment of Hon'ble Supreme Court in a case of **Dnyaneshwar Bhikan Solunke** (cited supra) :-

"14. The Hon'ble Supreme Court has specifically observed that the circular dated 10.05.1983 still holds the field and the office bearer or member of a local body, who is the candidate for a post of Police Patil may be considered for such post but he could be appointed Police Patil only on his actual designation from that body being effect.

15. In view of the above, the impugned order dated 31.01.2024 passed by the respondent no. 03, the Sub Divisional Officer, Nanded declaring the applicant ineligible only for the reason that at the time of filing the application for the post of Police Patil of village Patnur, Tq. Ardhapur, Dist. Nanded she was working as Sarpanch and Gram Panchayat Member and as such not eligible for appointment on the post of Police Patil, is not proper, correct 13 and legal. The impugned order is thus liable to be quashed and set aside."

13. In present matter, the resignation of respondent No.4 dated 22.08.2023 was accepted on 25.08.2023. Admittedly, **till that date i.e. 25.08.2023 no appointment order was issued in favour of respondent No.4.** It appears from the documents (Exh. 'A-4', page No.22 dated 25.08.2023) that the Tahsildar has already communicated the respondent-SDO that this respondent No.4 has already submitted his resignation from the Membership of Gram Panchayat. So the respondent- SDO could have ensured about resignation and its acceptance before communicating respondent No.4 about eligibility. It appears that after realizing the fact of acceptance of resignation and particularly considering the application of respondent No.4 dated 14.09.2023, the SDO has appointed respondent No.4 to the post of Police Patil. For the

reasons discussed, it would be difficult to accept that the contention of the applicant that the impugned appointment order of respondent No.4 is illegal as he was Member of Gram Panchayat on the date of filing application.

Secondly, the learned counsel for the applicant has tried to submit that the false affidavit (page No. 19) was given by the respondent No.4

14. Proclamation/advertisement suggests that the candidate has to submit affidavit that he has no concern with any political party, he is not full time worker or Member of Gram Panchayat. This respondent No.4 has contended in affidavit that he has no concern with political party. He has mentioned in it that he will obey rules/regulations etc. It will be difficult to accept the contention that this respondent No.4 has filed false affidavit.

15. For the aforesaid reasons, I find no merit in the Original Application and the same deserves to be dismissed. Hence the following order:-

ORDER

(A) The Original Application No. 1025/2023 is hereby dismissed.

(B) In the circumstances, there shall be no order as to cost.

MEMBER (J)