

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 832 OF 2024
(Subject:- Police Patil)**

DISTRICT:- JALGAON

Sarika Sangramsing Patil,)	
@ Sarika Barku Ahire)	
Age:- 32 Years, Occu:- Household,)	
R/o. At Savarkhede Post Adgaon,)	
Tal. Parola, Dist. Jalgaon.)	...APPLICANT

V E R S U S

1. The State of Maharashtra,)	
Through the Secretary,)	
Home Department, Mantralaya,)	
Mumbai-32.)	
2. The District Collector,)	
Jalgaon at Jalgaon.)	
3. The Sub-Divisional Magistrate,/)	
The President of)	
Police Patil Recruitment Committee-2023,)	
Erandol, Division Erandol,)	
Dist. Jalgaon.)RESPONDENTS

APPEARANCE	:	Shri Rahul A. Shinde, learned counsel for the applicant.
	:	Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

CORAM	:	Shri A.N. Karmarkar, Member (J)
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RESERVED ON	:	25.03.2025.
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PRONOUNCED ON	:	27.03.2025.
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ORDER

By filing this Original Application the applicant has prayed for setting aside the impugned order dated 24.08.2023 thereby disqualified this applicant for appointment to the post of Police Patil of village- Savarkhede, Tal. Parola, Dist. Jalgaon. She has also prayed for directing the respondents to continue the appointment process and the applicant be appointed to the post of Police Patil.

2. According to applicant, her name of parental side is Sarika Barku Ahire. She got married on 08.02.2015. She is having Tribe Certificate in her maternal name. The applicant belongs to Rajput Bhamta-10, (V.J.-A) category. She got certificate of Tribe from Deputy Collector, Nashik. In response to the advertisement dated 14.07.2023 thereby calling applications from the eligible candidates to be appointed as Police Patil, this applicant had filled on-line application. The post of Police Patil of village- Savarkhede, Tal. Parola, Dist. Jalgaon was reserved for Nomadic Tribe (B) category. This applicant has got 51 marks out of 80 marks in the written test conducted on 13.08.2023. She was also given 7 marks on the basis of educational documents. The

result of exam was declared and she was held as eligible. She was called upon to attend for scrutiny of educational and other documents on 22.08.2023. Accordingly, she was present. Her documents were verified. She was called for interview on 24.08.2023. She faced interview.

Thereafter, the respondent published merit list on 24.08.2023 and has wrongly declared the applicant as ineligible to the post of Police Patil as she does not belong to the particular category for which the said post was reserved. The applicant has forwarded representation along with G.R. dated 16.10.2008 showing the provisions of interchangeable subcategory of reservation in clause No. '५'. The respondent No.3 has failed to consider her candidature. Since the applicant has passed written test and her documents have verified, she can be said to be eligible. Secondly, she was only candidate who was eligible. The applicant belongs to Rajput Bhamta-10 category, which is included in V.J.-(A) category. As per the G.R. dated 16.10.2008, V.J.-(A), N.T.-(B), N.T.-(C) or N.T.-(D) can be inter changed. Another ground raised is that the respondent i.e. the Sub-Divisional Magistrate/Officer ignored the statutory provision as prescribed under Section 4(3) of Maharashtra State Public Services (Reservation for Scheduled, Castes, Scheduled Tribes, De-notified

Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001 (in short 'Act, 2001').

3. The respondent No.3 has filed his affidavit in reply (page No. 94). According to this respondent, they have published advertisement on 14.07.2023 to fill up the post of Police Patil of village-Savarkhede, Tal. Parola, Dist. Jalgaon. It was reserved for the candidate from Nomadic Tribe category. The applicant has filled on-line application for the post of Police Patil of village – Savarkhede, Tal. Parola, Dist. Jalgaon. But she belongs to V.J.-(A) category. So the category of the applicant and the category reserved for the post of Police Patil are different. According to him specific directions are given in the advertisement that the candidates other than the category for which the post of Police Patil is reserved, should not apply. So the claim of the applicant could not be considered as per G.R. dated 16.10.2008. She was not to be said to be entitled for the post of Police Patil. Secondly, the proposal for change in reservation of said village will be submitted to the Backward Class Cell of the Divisional Commissioner Office, Nashik for seeking guidance.

4. I have heard Shri Rahul A. Shinde, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for

the respondent authorities. Both the parties have submitted as per their respective contentions.

5. Learned counsel for the applicant has submitted that in response to the advertisement dated 14.07.2023 to fill up the vacancy of the post of Police Patil at village Savarkhede, Tal. Parola, Dist. Jalgaon, the applicant has forwarded her application on-line. She got 51 marks in written examination. Her documents were verified on 14.08.2023. She got 7 marks in connection with document verification. She was called for interview but she was disqualified as she does not belong to particular category for which the post of Police Patil was reserved. In support of his contention she has placed reliance on the judgment of this Tribunal in a case of **Mahendra S/o Shankarrao Sangle Vs. The State of Maharashtra & Ors. (O.A.No. 1012/2023)** dated 08.05.2024 and also on the judgment of Hon'ble High Court of Bombay in a case of **Avadhoot Vs. State of Maharashtra, through the Principal Secretary & Ors. (Writ Petition No. 465/2013)** reported in **2014 SCC Online Bom 2258** dated 24.12.2024.

6. On the other hand, learned Presenting Officer submits that as per advertisement, the post of Police Patil of village-Savarkhede was reserved for N.T.-(B) Women category. According

to him, the applicant who was not from that particular category as given in advertisement should not have forwarded application. For that purpose he has invited my attention to Clause No. 10 of advertisement (Page No. 38). Secondly as per advertisement, the documents were to be verified after written test and before oral test as per clause No. 4 of the same advertisement (page No. 39). He also submits that only one candidate i.e. the applicant has applied for the said post. The post referred by the applicant in both the judgments was not reserved particularly for Women category. He has also relied on the decision of this Tribunal in a case of **Shri Rahul S/o Ramnath Jadhav Vs. The State of Maharashtra & Anr. (O.A.No. 789/2016)** dated 29.03.2019. He has submitted that the facts in it are different but he relied on paragraph Nos. 22 and 24 in it.

7. The respondent has not specifically disputed that the applicant has forwarded on-line application for appointment to the post of Police Patil at village- Savarkhede and she has got 51 marks in the written test. The applicant has placed on record the list of marks which different candidates got after document verification at Annexure 'A-8'. The name of the applicant is at Sr. No. 120. This document is of 23.08.2024. This respondent has not disputed the contention of the applicant that she was called for

document verification on 22.08.2024 and the marks for verification of documents was published on 23.08.2024. The respondent has also not disputed that the applicant appeared for oral interview on 24.08.2023. The applicant has also placed on record the final mark sheet of other candidates applied to the post of Police Patil of different villages dated 24.08.2024. The applicant's name is at Sr. No. 44 in which there is remark that the applicant is ineligible as she is not from the category for which the post of Police Patil of village-Savarkhede is reserved. In that sheet no marks towards document verification and marks of interview are shown.

8. The applicant also came with the case that she belongs to V.J.-(A) category and the post of Police Patil at village-Savarkhede was reserved for the candidate from N.T.-(B) Women category. She has also placed on record her Tribe Certificate (Annexure 'A-3') which shows that she belongs to V.J.-(A). It is necessary to reproduce clause No.10 under the caption Selection Process, terms and condition (page No. 38) which is as under:-

“१०. प्रत्येक गावात केवळ एक पद उपलब्ध आहे व ते शासकिय निकषानुसार आरक्षित करण्यात आलेले आहे. अर्ज करतांना अर्जदाराने आरक्षण तपासून अर्ज करावा. (आरक्षणव्यतिरिक्त असलेल्या उमेदवारांनी अर्ज करू नये.)”

So there was specific direction that the candidate who does not belong to particular reserved category should not apply. But this applicant has applied for appointment to the post of Police

Patil. Therefore, it is difficult to accept the contention of the applicant that the respondent has erroneously declared the applicant as ineligible to the post of Police Patil of village-Savarkhede.

9. Learned counsel for the applicant has submitted that the applicant has passed written test and then she was called for interview after verification of documents. It is necessary to reproduce Clause No.4 of an advertisement (page No. 39), which is a under:-

“4) उमेदवाराची लेखापरीक्षा ही त्यांनी ऑनलाईन अर्जात नमूद केलेल्या गृहित पात्रतेनुसार कोणतीही कागदपत्रे पूर्वतपासणी / छाननी न करता घेतली जाणार असल्यामुळे या परीक्षेत मिळालेल्या गुणांच्या आधारे उमेदवाराला निवडीबाबत कोणतेही हक्क राहणार नाहीत. कागदपत्राच्या पूर्ण छाननीनंतर उमेदवारांची पात्रता निश्चित करण्यात येईल. लेखापरिक्षेच्या प्राथमिक चाळणी/ तोंडीपरीक्षेनुसार गुणवत्तेच्या आधारे उमेदवारांनी ऑनलाईन अर्जात नमूद केलेल्या गृहित पात्रतेनुसार अंतरिम यादी प्रसिध्द करून उमेदवारांच्या कागदपत्रांची सखोल छाननी केली जाईल. सदर प्रक्रियेत उमेदवार अपात्र आढळल्यास त्यास निवड प्रक्रियेतून बाद करण्यात येईल. पात्रता धारण न करणा-या उमेदवारांना भरतीच्या कोणत्याही टप्प्यावर अपात्र करण्याचे संपूर्ण अधिकार उपविभागीय दंडाधिकारी एरंडोल भाग एरंडोल यांचे जवळ राखून ठेवण्यात आलेले आहेत व याबाबत उमेदवारास कोणतीही तक्रार करता येणार नाही.”

It is made clear by this clause that the written test was to be conducted without verification of documents. So the candidates cannot claim his right of selection on the basis of marks obtained by him in the examination. Even it is made clear that after verification of documents, the decision regarding eligibility will be

taken. It is also made clear that the candidate can be held ineligible by the S.D.O. at any stage of recruitment after the candidate found to be ineligible. So it is difficult to accept that the applicant has got right to be appointed to post of Police Patil as she has faced interview after written test.

10. Learned counsel for the applicant has invited my attention to clause No. 'फ' of G.R. dated 16.10.2008 and also the provisions of Section 4(3) of Act, 2001. It would be proper to reproduce clause No. 'F' of the said G.R. and Section 4 of the Act of 2001, which reads as under:-

Clause No. 'फ' is an under:-

“फ) वरीलप्रमाणे पदे ठरविण्यात आल्यानंतर त्या प्रवर्गाचा उमेदवार उपलब्ध न झाल्यास खालीलप्रमाणे प्रवर्गाचे ३ गट करून त्या गटातील प्रवर्गातील उमेदवारांमधून अदलाबदलीने पदे भरण्यात यावीत.

१. अनुसूचित जाती व अनुसूचित जमाती

२. विमुक्त जाती (अ) व भटक्या जमाती (ब)

३. भटक्या जमाती (क), भटक्या जमाती (ड) व इतर मागासवर्गीय

वरीलप्रमाणे गटातीलही उमेदवार उपलब्ध न झाल्यास ते पद खुल्या प्रवर्गातून भरण्यात यावे. ”

Section 4 of the Act of 2001 is as under:-

“4. Reservation and percentage - (1) Unless otherwise provided by or under this Act, the posts reserved for the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes shall not be filled in by the candidates not belonging to that caste, tribe, category or class for which the posts are reserved.

2) Subject in other provisions of this Act, there shall be posts reserved for the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis). Nomadic Tribes, Special Backward Category and Other Backward Classes, at the stage of direct recruitment in public services and posts specified under clause (1) of section 2, as provided below-

<i>Description of Caste/Tribe/ Category/Class</i>	<i>Percentage of vacancies or seats to be reserved</i>
<i>(1) Scheduled Castes</i>	<i>13 per cent.</i>
<i>(2) Scheduled Tribes</i>	<i>7 per cent</i>
<i>(3) De-notified Tribes (A)</i>	<i>3 per cent.</i>
<i>(4) Nomadic Tribes (B)</i>	<i>2.5 per cent.</i>
<i>(5) Nomadic Tribes (C)</i>	<i>3.5 per cent.</i>
<i>(6) Nomadic Tribes (D)</i>	<i>2 per cent.</i>
<i>(7) Special Backward Category</i>	<i>2 per cent.</i>
<i>(8) Other Backward Classes</i>	<i>19 per cent.</i>
<i>Total</i>	<i>52 per cent:</i>

Provided that, Government may, by an order in the Official Gazette, provide that the percentage of reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Categories and Other Backward Classes, in all posts, shall be on the basis of latest census record of population of the,-

- (i) State, in the case of State cadre posts, and*
- (ii) concerned district, in the case of district cadre posts*

Provided further that, the principle of "Creamy Layer" shall be applicable to all categories mentioned above except Scheduled Castes and Scheduled Tribes.

Explanation I.-For the purposes of this sub-section is shall not bad Tribes (A) Nomadic Tribes (B)", "Nomadic Tribes (C)" and " Nomadic Tribes (D)" shall mean such Tribes or sub Tribes, declared by Government, by general or special orders issued in this behalf, from time to time, to be "the De-notified Tribes (A)", "Nomadic Tribes (B)", "Nomadic Tribes (C)" and " Nomadic Tribes (D)".

Explanation II.-For the purposes of this sub-section, the expression "Creamy Layer" means the persons falling in the category of "Creamy Layer" as declared by Government in the Social Justice, Cultural Affairs and Sports Department by general or special orders issued in this behalf, from time to time.

Provided also that, if on the date of coming into force of this Act, if any additional reservation is in force for the Scheduled Tribes in Thane, Nashik, Dhule, Nandurbar, Raigad, Yavatmal, Chandrapur and Gadchiroli districts for direct recruitment in Groups C and D posts, under any Government orders, such reservation shall continue to be in force till such orders are modified or revoked.

[Provided also that, on the date preceding the date of formation of the Palghar District, that is preceding the 1" August 2014, the reservation including additional reservation for the Scheduled Tribes which was in force in the then Thane District for direct recruitment in Group 'C' and Group 'D' posts, under any Government orders, shall continue to be in force with affect from the 1" August 2014 in the Palghar District till such orders are modified or revokes, and on or after the 1" August 2014, the reservation for direct recruitment in Group 'C' and group 'D' posts in the Thane District existing from the 1" August 2014, after division of the then Thane District, shall be as provided in the Table under this sub-section.]

(3) The reservation specified for the categories mentioned at serial numbers (3) to (6) (both inclusive) the table under sub-section (2) shall be inter transferable. If suitable candidates for the posts reserved for any of the said categories are not available in the same recruitment year, the posts shall be filled by appointing suitable candidates from any of the other said categories

(4) In all posts at the divisional level or district level the percentage of reservation occurring in a recruitment year in such categories of Group-C and Group-D posts as may be notified by the Government in this behalf, shall be maintained at such divisional or district level only."

Learned counsel for the applicant has submitted by referring Section 4(3) that the reservation specified for the category mentioned at Sr. Nos. 3 to 6 (both inclusive) in the table under sub-section (2) shall be inter changeable. She has further submitted by referring clause No. 'ॢ' in G.R. dated 16.10.2008 that the applicant could have been appointed to the post of Police Patil if the candidate from N.T.-(B) category was not available.

11. It has to be noted that said G.R. is pertaining to policy regarding reservation for the post of Police Patil. It is necessary to

reproduce particularly Clause No. 'क, इ and ग' in the said G.R.

which are as under:-

“क) आरक्षित तसेच अनारक्षित प्रवर्गातील पदे भरतांना महिलांसाठी समांतर ३०% पदे आरक्षित ठेवण्यात यावीत.

इ) वरीलप्रमाणे प्रत्येक प्रवर्गासाठी ठरविण्यात आलेल्या पदांमधून त्या त्या प्रवर्गातील महिला आरक्षणासाठी सोडत काढली जाईल.

ग) महिलांसाठी आरक्षित ठेवण्यात आलेल्या पदांसाठी त्या प्रवर्गातील महिला उपलब्ध न झाल्यास ते पद त्या प्रवर्गातील पुरुष उमेदवारांमधून भरण्यात येईल.”

So it is clear that there was provision to keep certain post reserved for Women by way of Parallel reservation to the extent of 30%. Copy of an advertisement calling application for appointment to the post of Police Patil dated 14.07.2023 shows that the post of Police Patil at village –Shavarkhede was reserved for N.T.-(B) Women category (page No. 34). So clause No. 'ग' of this G.R. is also important. It says that in case of non-availability of any Women candidate for the post reserved for Women, then that post will be filled in by male candidate from the same category. It has been submitted by learned P.O. that only one candidate has applied for the post of Police Patil of village-Savarkhede. Since the applicant is not the candidate from the N.T.-(B) category, the applicant was not appointed. The post referred to in both the judgment referred by applicant was not reserved for Women. In view of this particular Clause No. 'ग' in G.R. dated 16.10.2008 and for the reason stated above, both the

judgments referred by the applicant are not applicable to the present case. So it cannot be said that there is no substance in the contention of the respondents that the applicant is not entitled to get appointment to the post of Police Patil of village Savarkhede, Tal. Parola, Dist. Jalgaon. The Original Application is therefore deserves to be dismissed. Hence, the following order:-

ORDER

- (A) The Original Application is hereby dismissed.
- (B) In the circumstances, there shall be no order as to costs.

MEMBER (J)