

**ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 171 OF 2024
(Subject:- Police Patil)**

DISTRICT:- DHULE

Shri Dinesh Suresh Bedse,)
Age: 28 years, Occu. Nil,)
R/o: Rahimpura, Tal. Shindkheda,)
Dist. Dhule.)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through Principal Secretary,)
Home Department, Mumbai-411001.)
- 2. District Collector, Dhule**)
District: Dhule.)
- 3. The Sub-Divisional Officer**)
cum Sub-Divisional Magistrate,)
Shirpur Division, Shirpur,)
Tq. Shirpur, Dist. Dhule.)
- 4. Ramraje Harshdeep Santosh**)
Age: major, Occ.: Service (Police Patil))
R/o: Village Rahimpure, Tq. Shindkheda,)
District: Dhule.)...**RESPONDENTS**

APPEARANCE : Shri Ashutosh C. Sisodiya, learned counsel
for the applicant.

: Shri D.M. Hange, learned Presenting
Officer for the respondent Nos. 1 to 3.

: Shri Aditya N. Avachit, learned counsel for
respondent No.4.

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

RESERVED ON : **03.04.2025.**

PRONOUNCED ON : **24.04.2025.**

ORDER

By filing this Original Application the applicant is seeking relief of quashing and setting aside the impugned order dated 15.01.2024 issued by respondent No.3, thereby cancelling his appointment as Police Patil of village- Rahimpure, Tal. Shindkheda, Dist. Dhule. He has also prayed to quash and set aside an order of appointment of respondent No.4 dated 19.08.2024 to the post of Police Patil of village -Rahimpure, Tal. Shindkheda, Dist. Dhule.

2. In response to the proclamation dated 03.10.2023 published by respondent No.3, this applicant has applied for the post of Police Patil of village- Rahimpure, Tal. Shindkheda, Dist. Dhule. The said post was reserved for the candidate of Scheduled Caste (S.C.) category. The applicant received letter dated 30.10.2023 issued by Sub-Division Officer (in short 'S.D.O.') intimating that he has passed the written examination and the applicant was called for interview on 01.11.2023 at District Planning Officer Office, District Office, Dhule. Thereafter, the respondent No.3 called the applicant on 07.11.2023 at the office of S.D.O., Shirpur for document verification.

One Zulal Mahala Ramraje and the villagers of Rahimpure, filed an objection before the Deputy Divisional Police Officer, Shirpur Division, Tal. Shirpur with contentions about pendency of criminal cases registered against the applicant in the year 2018 and 2019 respectively with Dondaicha Police Station. The Deputy Divisional Police Officer, Shirpur Division, Tal. Shirpur forwarded the said objection to the S.D.O., Shirpur Division, Tal. Shirpur. Then the respondent-S.D.O. sent letter to the applicant and given opportunity of hearing to him on 04.12.2023.

On 07.12.2023 the applicant has filed his representation/reply before the S.D.O. mentioning that he was Sarpanch of village- Rahimpure from 2014 to 2019 and Cr. No. 55/2018 for the offence punishable under Section 353, 351 of Indian Penal Code and Cr. No. 32/2019 for the offences punishable under Section 420, 406, 409, 407, 468, 120B and 34 of Indian Penal Code were registered with mala-fide intention and due to political rivalry. According to him, in a matter pertains to Cr. No. 55/2018, he was acquitted by Assistant Sessions Judge, Dhule. Secondly, in respect of Cr. No. 32/2019, no charge-sheet is filed. Some villagers of Rahimpure forwarded representation dated 22.12.2023 to the S.D.O. for appointing this applicant as Police Patil. The S.D.O. has cancelled the selection of the applicant vide order dated 15.01.2024 on the ground of pendency

of F.I.R. This impugned order is challenged on the ground that the said order is illegal and arbitrary and it is passed without application of mind. Secondly the respondent –S.D.O. should have considered that the applicant is acquitted in a matter pertains to Cr. No. 55/2018 for the offence punishable under Section 352 and 353 of I.P.C. The S.D.O. should have also considered that the applicant was granted Anticipatory bail in connection of Cr. No. 32/2019 and no charge-sheet is filed.

Another ground is that the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 (in short 'Order, 1968') does not reveal that the registration of F.I.R. is a disqualification.

3. The respondent No.3 has filed affidavit in reply (page No. 91). According to this respondent as per clause No.5 in the advertisement dated 03.10.2023, the character of the candidate must be unblemished and he should not have connected with political party. According to him, the applicant had declared that he has no connection with political party, but he has admitted in paragraph No. 9 that the offences are registered against him because of political rivalry. Secondly Crime No. 32/2019 for the offences punishable under Section 420, 406, 409, 467, 468, 471 and 120(b) of Indian Penal Code was registered against the applicant. According to this respondent, the applicant has not

furnished information regarding registration of crime against him. The villagers of village –Rahimpure have raised objection in respect of criminal antecedents of the applicant. Therefore, the applicant is not a fit candidate to be appointed as Police Patil. According to him their impugned order dated 15.01.2024 is well reasoned and self-explanatory.

4. The respondent No.4 has also filed affidavit in reply (page No. 123). According to him the applicant has no locus to file this Original Application as he was never appointed to the post of Police Patil. The impugned order came to be passed in view of provisions of Order, 1968. The villagers have mentioned their objection about misappropriation of Government funds by the applicant. The impugned order came to be passed after giving opportunity of hearing to the applicant. According to this respondent No.4 during recruitment process the applicant stood first, but due to his inability to comply with the eligibility standards, he was disqualified. This respondent stood second in the recruitment process and he was appointed by the respondent – S.D.O.

5. I have heard Shri Ashutosh C. Sisodiya, learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for the respondent authorities and Shri Aditya N. Avachit,

learned counsel for respondent No.4. All the parties have submitted as per their respective contentions.

6. Learned counsel for the applicant has submitted that in one of the case i.e. Cr. No. 55/2018 (which is referred in the impugned order) for the offence punishable under Section 351 and 353 of Indian Penal Code, this applicant is acquitted. It is submitted that in respect of Cr. No. 32/2019 (which is also referred in the impugned order) for the offence punishable under Section 420, 406, 409, 407, 468, 120B and 34 of Indian Penal Code, this applicant is already enlarged on bail. In support of his contentions the applicant is relying on the judgment passed by Principal seat of this Tribunal at Mumbai in a case of **Smt. Komal Krushnat Shinde Vs. the State of Maharashtra & Ors. (O.A. No. 663 of 2022)** on 03.02.2023 and on the judgment passed by this Tribunal in a case of **Kunal S/o Hitenrasing Rajput Vs. The State of Maharashtra (O.A.No. 83/2024)** with in a case of **Shri Yatesh S/o Rajendrasing Rajput Vs. Shri Kunal Hitendrasing Rajput & Anr. (M.A.No. 241/2024)**. Learned counsel has also placed on record 'A' summery report in respect of that Cr. No. 32/2019.

7. On the other hand, learned counsel for respondent No.4 has submitted that the summery report is still not accepted by the learned J.M.F.C. He has also submitted that subsequent to

filing of this petition F.I.R. pertaining to harassment to the wife is registered against the applicant and his family members vide Cr. No. 245 of 2024 punishable under Section 85, 115 (2), 352, 351 (2), 351 (3) of B.N.S.S.

8. Learned Presenting Officer has submitted that as per the advertisement, the character of the candidate must be unblemished. The applicant himself has contended in the reply filed before the respondent-S.D.O. in connection with complaint of villagers that the criminal cases were filed due to political rivalry.

9. It is undisputed fact that the applicant has applied for the post of Police Patil of village Rahimpure, Tq. Shindkheda, Dist. Dhule in response to the advertisement published by the respondent No.3. The respondent No.4 has contended that he has also participated in the Police Patil recruitment process. According to him, this respondent No.4 stood 2nd and the applicant stood 1st in the recruitment process. I have also perused the original record which is produced by learned P.O. It appears from the record that the present applicant has got 37 marks in the written test and 11 marks in the oral test i.e. total 48 marks. It also appears that the present respondent No.4 has got 36 marks in the written test and 08 marks in the oral test i.e. total 44 marks. So this document showing the marks obtained by the candidates supports the contention of the respondent No.4.

10. According the applicant he was called for documents verification on 07.11.2023. One Zulal Mahala Ramraje and other villagers have filed objection before the Deputy Divisional Police Officer, Shirpur Division, Tq. Shirpur intimating about pendency of two criminal cases against the applicant. The Deputy Divisional Police Officer, Shirpur Division, Tq. Shirpur forwarded this letter to S.D.O. On that basis, the S.D.O. has sent notice to the applicant to remain present on 04.12.2023. It appears that the present applicant has filed his written reply to that objection application on 07.12.2023 vide Annexure 'A-8' (page No.54). It appears from the impugned order dated 15.01.2024 (page No. 67) that the applicant was held to be ineligible to the post of Police Patil as his character was not found to be unblemished. It will be proper to reproduce clause No.5 under the caption 'eligibility of the candidate' to the post of Police Patil. The said clause No.5 is as under:-

“५. अर्जदार शारीरिकदृष्ट्या सक्षम असावा व अर्जदाराचे चारिज्य निष्कलंक असणे आवश्यक आहे.”

It will be also proper to reproduce clause No.5 under the caption 'selection procedure, terms and conditions'. The said clause No.5 is as under:-

“५. अर्जदाराचे चारिज्य निष्कलंक असल्याबाबतचे संबंधीत पोलीस स्टेशनचे चारिज्य प्रमाणपत्र हे कागदपत्र पडताळणीच्या वेळी सदार करणे आवश्यक राहिल.”

So it was incumbent on the part of the candidate to file the character certificate obtained by the police station. The original record submitted by learned P.O. shows that the present applicant has submitted the Police Clearance Certificate obtained by Superintendent of Police, Dhule. It has to be noted that the note is taken in respect of registration of Cr. No. 32/2019 for the offence punishable under Section 420, 406, 407, 471, 120(B) and 34 of IPC at Dondaicha Police Station and Cr. No. 55/2018 for the offence punishable under Section 351 and 353 of IPC at Dondaicha Police Station against the applicant. It is also mentioned that in a case pertaining to Cr. No. 55/2018 the applicant is acquitted. The clauses referred above as given in advertisement do not reveal that the candidate against whom the offence is registered would be ineligible to the post of Police Patil. It will be proper to reproduce Section 3 of Order 1968, which is pertaining to eligibility of appointment to the post of Police Patil. It is as under:-

“3. Eligibility of appointment- No person shall be eligible for being appointed as a Police Patil who

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

So this clause No.3 of the Order, 1968 says that no person shall be eligible for being appointed as a Police Patil who 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 unsuitable for employment as Police Patil. I

11. It is undisputed fact that an opportunity was given to the applicant to submit his reply against the objection raised by the villagers. The impugned order also shows that the applicant was also heard before passing impugned order. A certificate was also collected by the S.D.O. who is competent authority from Superintendent of Police, Dhule and it was considered while passing impugned order. It is also mentioned that a meeting of selection committee was also held and it was decided that due to pendency of serious offences against the applicant, the applicant is not to be appointed. The Competent Authority i.e. the S.D.O. has particularly held that the character of the applicant is not unblemished and is not suitable to the post of Police Patil.

12. Learned counsel for the applicant has placed on record a copy of 'A' summery report which is placed before the learned J.M.F.C., Dondaicha in respect of Cr. No. 32/2019. There was allegation in the FIR against this applicant and one of the Gramsevak in respect of misappropriation of Government funds. It

is also alleged in the said F.I.R. that four beneficiaries were given grants twice. It is also alleged that in relevant documents some erasers were noticed with the help of whitener and then names of the beneficiaries were mentioned. So such allegations are pertaining to the preparation of false documents. Though 'A' summery report is submitted, still that is not accepted by learned J.M.F.C. Only the order regarding issuance of notice to the informant is passed by the learned J.M.F.C.

13. There is also one G.R. dated 26.08.2014 which prescribes the guidelines for appointment of candidates in Government service on Group 'C' and Group 'D' post. It is true that it is not pertaining to appointment of Police Patil. Annexures 'A' and 'B' are enclosed along with the said G.R. and illustrative list of offences are given in it. It is also true that those are illustrative lists. It shows that in case the candidate is held guilty by the Court for certain offences then he is not to be considered for selection. Similarly in some type of cases, which are pending then also candidate is not to be selected. It will be proper to reproduce Annexure - 'A' attached to Government Circular dated 26.08.2014.

The said Annexure - 'A' is as under:-

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 नासधूस	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	...

In Annexure 'A' at Sr. No. 14 there is also a clause which is pertaining to preparation of false documents. It is already discussed in the foregoing paragraphs that in respect of allegation of forgery one crime vide Cr. No. 32/2019 for the offence punishable under Section 420, 406, 407, 467, 468, 471, 120(B) and 34 of IPC is registered at Dondaicha Police Station and is still

pending. Section 467 and 471 of IPC pertain to use of forged document. As per Annexure 'A' in G.R. dated 26.08.2014 even if proceeding regarding forged document is pending, case of such candidates is not to be considered. So in view of this G.R. it would be difficult to accept at this stage that the applicant is suitable for the appointment to the post of Police Patil. Secondly, it is already discussed that the Competent Authority has also come to the conclusion that in his opinion the applicant is not a suitable person to be appointed as Police Patil in view of pendency of such criminal case i.e. Cr. No. 32/2019. So the respondent-S.D.O. already decided in view of clause No.3 (e) of Order, 1968 that the applicant is not eligible to be appointed as Police Patil. The applicant has relied in a case of Smt. **Komal Krushnat Shinde Vs. the State of Maharashtra & Ors. (cite supra)** . However, the facts in that matter appeared to be different as in that case the offence under Section 323, 324, 504, 506 r/w 34 of IPC were levelled. Those offences are minor in nature as compared to the offences levelled against the applicant. The applicant has also relied in a case of **Kunal S/o Hitenrasing Rajput Vs. The State of Maharashtra (O.A.No. 83/2024)** with in a case of **Shri Yatesh S/o Rajendrasing Rajput Vs. Shri Kunal Hitendrasing Rajput & Anr. (M.A.No. 241/2024)**. But in that matter the respondent- S.D.O. has just considered the aspect of pendency of criminal case and

there was no summery enquiry as contemplated under Order, 1968. Facts in that are somewhat different. So both the judgments are not helpful to the case of the preset applicant.

14. It is true that the applicant is acquitted in Session Case No. 22/2019 which is on the basis of C.R. No. 55/2018. In that matter also the applicant has come with the case of his implication due to political rivalry. The applicant has also contended in his reply before the S.D.O. in response of objection of villagers about his false implication due to political rivalry. So this aspect also cannot be ignored. For the reasons discussed in the foregoing paragraphs it is difficult to accept that the impugned order is improper and illegal.

15. The respondent No.4 has placed on record one copy of F.I.R. vide Cr. No. 245/2024 which was registered on 23.10.2024 in which the allegations is about harassment to the wife by the applicant. Learned counsel for respondent No. 4 submits that Section 85, 115(2), 352, 351 (2) and 351 (3) of B.N.S.S. are equivalent to Section 498-A, 323, 504, 506 of IPC which were earlier in existence. Allegations under these Sections are not appearing in annexures attached to the G.R. dated 24.08.2024.

16. For the reasons stated above, this Original Application 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.
- (C) The Original Record be returned to concerned department through learned Presenting Officer.

MEMBER (J)**Place:-Aurangabad****Date : 24.04.2025**

SAS O.A. 171/2024 Police Patil