

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 83 OF 2024
WITH
MISC. APPLICATION NO. 241 OF 2024
(Subject :- Police Patil)**

ORIGINAL APPLICATION NO. 83 OF 2024

DISTRICT:- DHULE

Kunal s/o Hitendrasing Rajput,)
Age : 26 years, Occu.: Nil,)
R/o: At: Ajande Bk.,)
Post Holnanthe, Tal. Shirpur,)
Dist. Dhule.)... **APPLICANT**

V E R S U S

The State of Maharashtra,)
Through Sub-Divisional Officer,)
Shirpur-cum-Chairman,)
Police Patil Recruitment -2023)
Selection Committee,)
Shirpur, Dist. Dhule.)...**RESPONDENTS**

WITH

MISC APPLICATION NO. 241 OF 2024

DISTRICT:- DHULE

Shri Yatesh S/o Rajendrasing Rajput,)
Age : 30 years, Occu.: Nil,)
R/o: At: Ajande Bk., Post Holnanthe,)
Tal. Shirpur, Dist. Dhule.)... **APPLICANT**

V E R S U S

1. Shri Kunal Hitendrasing Rajput,)
Age : 26 years, Occu.: Nil,)
R/o: At: Ajande Bk., Post Holnanthe,)
Tal. Shirpur, Dist. Dhule.) **(Orig. Applicant)**

2. The State of Maharashtra,)
 Through Sub-Divisional Officer,)
 Shirpur-cum-Chairman,)
 Police Patil Recruitment -2023)
 Selection Committee, Shirpur,)
 Tq. Shirpur, Dist. Dhule.)(Orig. Respondent)
...RESPONDENTS

APPEARANCE : Ms. Preeti R. Wankhade, learned counsel
 for the applicant in O.A./respondent
 No.1 in M.A.
 : Shri A.P. Basarkar, learned Presenting
 Officer for the respondent authority.
 : Shri Mahesh S. Sonawane, learned
 counsel for the applicant in M.A.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **08.10.2024.**

O R D E R

Heard Ms. Preeti R. Wankhade, learned counsel
 for the applicant in O.A./respondent No.1 in M.A., Shri A.P.
 Basarkar, learned Presenting Officer for the respondent
 authority and Shri Mahesh S. Sonawane, learned counsel for
 the applicant in M.A.No. 241/2024 finally with consent at
 admission state.

2. By filing this Original Application the applicant is
 seeking quashing and setting aside the order dated

15.01.2024 issued by the sole respondent and further seeking direction to the respondent to issue appointment order in favour of the applicant as Police Patil of village Ajande Bk., Tq. Shirpur, Dist. Dhule in terms of the selection process initiated vide advertisement dated 03.10.2023.

3. Brief facts giving rise to this Original Application are as follows:-

(i) In response to the advertisement dated 03.10.2023 published by the respondent calling upon the applications for filling in total 52 posts of Police Patil within the Shirpur Sub Division of District Dhule, the applicant has duly submitted his application for the post of Police Patil of village Ajande Bk., Tal. Shirpur, Dist. Dhule in due course of time. The applicant had appeared for the written examination and the respondent had also published the merit list of written examination. In the said list the name of the applicant is at Sr. No.2 on securing 63 marks out of 80 marks. There is one another candidate, who has secured 67 marks at Sr. No.1, but he has simultaneously selected in another recruitment and therefore he did not remain present for the Viva-Voca.

(ii) The applicant further contends that the applicant was called for the interview along with the original documents on 01.11.2023. The applicant has made an application to the concerned Superintendent of Police, Dhule for getting the character verification certificate. The applicant has presented himself before the Selection Committee and on the same date the select list was published by the respondent. The applicant by securing 71 marks topped the list of police patil for village Ajande Bk, Tal. Shirpur, Dist. Dhule.

(iii) It is the further case of the applicant that thereafter the applicant was directed to remain present for verification of documents on 07.11.2023. The applicant has submitted the character certificate on 04.12.2023 with a detailed application stating that mere registration of offence is mentioned in the character certificate and he has not been held guilty or convicted in connection with the said registration of F.I.R.

(iv) The applicant further contends that in response to the notice issued by the respondent dated 05.12.2023 the applicant has appeared before the respondent for hearing on the objection filed in this regard. By order dated 15.01.2024 the sole respondent has declared the applicant as ineligible for being appointed to the post of Police Patil of village Ajande

Bk., Tal. Shirpur, Dist. Dhule. Hence, this Original Application.

4. Learned counsel for the applicant submits that in terms of the condition No.5 under the head of selection procedure, terms and conditions of the advertisement dated 03.10.2023 issued by the respondent, the candidate is required to submit the character verification certificate from the concerned police station to show that the candidate is a person having good character. The learned counsel for the applicant submits that in terms of the provisions of Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Service) Order, 1968 (hereinafter referred to as 'Order 1968' for brevity) particularly clause No.3, 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 him unsuitable for employment as Police Patil.

5. Learned counsel for the applicant submits that as per the character verification certificate of the applicant issued by the concerned police station, one Crime No.

52/017 for the offences punishable under Section 354, 143, 147 and 146 of Indian Penal Code is shown pending in the court at Shirpur.

6. Learned counsel for the applicant submits that in terms of the Government Circular dated 26.08.2014 certain guidelines are prescribed for appointment of the candidates in Government service on Group 'C' and Group 'D' post on character verification. In terms of Annexure 'A' of the said circular, the categories of the crimes are mentioned indicating in detail as to the stage of judicial proceeding in connection with the said crime and the appointment of the candidates against whom the crime is registered. Learned counsel for the applicant submits that as per Sr. No. 18 of the said Annexure 'A', the crime molestation shall be considered as bar for appointment in Government service only if the candidate is convicted. Certain crimes are also there in the said Annexure 'A' wherein in connection with the same, even pending trial is also sufficient to reject the candidature for being appointed in Government service on Group 'C' and Group 'D' post.

7. Learned counsel for the applicant submits that in terms of the aforesaid Order of 1968, the competent authority is required to adjudge the eligibility of a person for being appointed as Police Patil after making a summary inquiry to be of bad character or that render him unsuitable for employment as Police Patil. Learned counsel for the applicant submits that in the instant case the respondent who is competent authority has neither conducted any summary inquiry nor adjudged on the basis of summary inquiry that the applicant is a person having bad character or that render him unsuitable for employment as Police Patil. Learned counsel for the applicant even on referring the copy of F.I.R. (Annexure 'A-1') submits that the allegations about the molestation have been made only against one Jagdish Narendrasing Sisodiya and so far as the applicant is concerned, his name is only referred as a member of an unlawful assembly without attributing any specific role.

8. Learned counsel for the applicant in order to substantiate her contentions placed reliance in a case of **Karan Ashok Bhosale Vs. State of Maharashtra & Ors.**

decided by Principal Seat of this Tribunal at Mumbai in O.A. No. 139/2020 by order dated 24.08.2021.

9. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of sole respondent submits that Crime No. 52/2017 came to be registered against the applicant for the offences punishable under Section 354, 143, 147, 146 of IPC. In terms of clause No.5 of the advertisement the character of the candidate is necessary to be clean and clear and for that purpose the candidate must have submitted his character verification certificate from the concerned police station at the time of verification of documents.

10. Learned Presenting Officer submits that after written examination is over, on 29.10.2023 the respondent had published the merit list of written examination wherein the name of the applicant is shown at Sr. No.2. In terms of the above mentioned condition No.5 in the advertisement, it is mandatory to verify the character of the concerned candidate. Thus the applicant has made application to the Superintendent of Police, Dhule for obtaining the character certificate. The applicant has not submitted his character verification certificate from the concerned police station and

therefore on 20.11.2023 the respondent had issued a notice as a reminder to submit his character certificate. Thereafter the applicant has submitted his character certificate dated 04.11.2023 to the office of respondent on 04.12.2023. In the said character certificate it is clearly mentioned in the remarks column that the crime has been registered against the applicant at Thalner Police Station in Dhule District bearing Crime No. 52/2017 for the offences punishable under Section 354, 143, 147, 146 etc. The criminal case is pending before the Court at Shirpur.

11. Learned Presenting Officer submits that after receipt of the character verification certificate one Shri Bhavesh Tukaram Patil has raised an objection in respect of the character of the applicant. Thus the office of respondent has issued notice to the applicant to remain present for hearing on the objection. The respondent has also given opportunity of hearing to the present applicant and complainant Shri Bhavesh Tukaram Patil. After hearing to the concerned parties the respondent had come to the conclusion that since the aforesaid criminal case is pending against the applicant and more particularly the offences punishable under section 354, 143, 147, 146 of IPC has been

allegedly committed by the applicant, passed the impugned order dated 15.01.2024. Thus the action taken by the respondent dated 15.01.2024 is legal, proper and correct. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

12. Learned counsel for the applicant on the basis of affidavit in rejoinder submits that in terms of the Recruitment Rules dated 04.11.1968 particularly Rule 3 (e), no person shall be eligible for appointment who is adjudged by the competent authority after summary enquiry to be of bad, or has, in the opinion of that authority, such antecedents as render him unsuitable for employment as Police Patil. Learned counsel for the applicant submits that the competent authority who has to take a conscious decision by applying the mind whether a registration of crime is an impediment for appointment of a person as a police patil. Clause No.5 of the advertisement is contrary to the Recruitment Rules and hence unsustainable. Learned counsel for the applicant submits that the applicant had applied for the said character certificate and when it was supplied to him immediately submitted to respondent No.1 and said fact of registration of crime is mentioned in the certificate.

13. Learned counsel for intervenor submits that there is an offence bearing Crime No. 52/2017 registered against the applicant in the concerned police station for offences punishable under Section 354, 143, 147, 146 of IPC. The respondent therefore vide impugned order dated 15.01.2024 has rightly held that the applicant is ineligible for appointment as Police Patil of village Ajande Bk., Village Panchayat. Learned counsel for the intervenor submits that the Hon'ble Supreme Court in a case of **State of Madhya Pradesh & Ors. Vs. Parvez Khan** held that the candidate to be recruited in police service must be worthy of confidence of utmost rectitude and must have impeccable character and integrity. Person having criminal antecedents would not fit into said category since even if he is acquitted or discharged, it cannot be presumed that, he was completely exonerated. Learned counsel for the intervenor, however, has not placed before this Tribunal the aforesaid citation referred by him in the oral submissions.

14. Having gone through carefully the advertisement dated 03.10.2023 it appears that clause No.5 under the head

of selection procedure, terms and conditions prescribes the following condition:-

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

15. In terms of order No.3 (e) of the orders 1968, the eligibility criteria is prescribed for appointment on the post of Police Patil. The said Order No. 3(e) reads as follows:-

“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 a bad character, or has, in the opinion of that authority, such antecedents as render him unsuitable for employment as Police-patil.”

16. The Government circular dated 26.08.2014 prescribes guidelines for appointment of candidates in Government service on Group ‘C’ and Group ‘D’ post. The Annexure ‘A’ of the said circular is important though it’s illustrative. The offence molestation is mentioned at Sr. No. 18 in the list of the said Annexure –‘A’. It is mentioned in the

said list that the candidates should be rejected on following criteria:-

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

So far as the crime molestation “विनयभंग” is concerned, the candidate should be rejected only if convicted. So far the column No.2 of the said list is concerned, the pending trial is kept blank so far as the crime molestation is concerned. It thus indicates that mere registration of crime about molestation and pending trial would not sufficient to reject the candidate. In the instant case the case is pending before the court.

17. Though the learned counsel for the applicant has vehemently submitted that on perusal of the F.I.R. it appears that the allegations about the molestation have been made only against one Jagdish Narendrasing Sisodiya and so far as the applicant is concerned along with 6-7 other persons, his name is taken as a member of unlawful assembly without ascribing any specific role, I am not inclined to consider the same. It is for that court to consider the same while concluding the trial.

18. In view of aforesaid rider either through the Government circular dated 26.08.2014 or Maharashtra Village Police Patil (Recruitment, Pay and Allowances & Other Conditions of Service) Order framed way back in the year

1968, it is for the competent authority to adjudicate the same after a summary inquiry that the candidate is of a bad character or in the opinion of that authority, such antecedents has render him unsuitable for employment as Police Patil.

19. In a case of **Karan Ashok Bhosale Vs. State of Maharashtra & Ors.** the principal seat of this Tribunal at Mumbai has decided the Original Application filed by the objector by judgment and order dated 24.08.2021. Though it was a case of supersession of material fact allegedly by the respondent No.5 about registration of crime, however, by referring the Government Circular and order of 1968 and after going through the contents of the F.I.R. rejected the submissions advanced by the applicant that the respondent No.5 is not eligible for appointment on the post of Police Patil and accordingly dismissed the Original Application.

20. On perusal of the impugned order dated 15.01.2024 it appears that the sole respondent has considered the aspect of the pendency of the criminal case and nothing more than that. There is no summary inquiry as contemplated under order of 1968. Even the respondent has

not bothered to go through the contents of the F.I.R. There is no adjudication as such about the fact as to whether the applicant is having bad character or not. However, in terms of the aforesaid Government Circular dated 26.08.2014 the mere pendency of the criminal case would not be sufficient to reject the candidate with a remarks that he has having bad character. The applicant has secured 63 marks out of 80 marks and his name is at Sr. No.2. The candidate who has secured 67 marks and at Sr. No.1 has simultaneously selected in another recruitment and therefore, he did not remain present for the Viva-Voce. Thus considering the entire aspect of the case I am inclined to allow this Original Application. Hence, the following order:-

ORDER

- (A) The Original Application is hereby allowed.
- (B) The impugned order dated 15.01.2024 issued by the respondent is hereby quashed and set aside.
- (C) The respondent is hereby directed to issue appointment order in favour of the applicant as Police Patil of village Ajande Bk. in Shirpur Taluka

of Dhule District in terms of the selection process initiated vide advertisement dated 03.10.2023.

- (D) In the circumstances, there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.
- (F) In terms of the order passed in the Original Application, the Misc. Application is also disposed of. No costs.

MEMBER (J)

Place:-Aurangabad

Date : 08.10.2024

SAS O.A. 83/2024 with M.A. 241/2024 (S.B.) Police Patil