

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 575 OF 2024

(Subject:- Police Patil/Suspension)

DISTRICT:-DHARASHIV

Ajit s/o Bapurao Jadhav,)
Age -30 years, Occupation- Police Patil,)
R/o. At: Kherda, Post: Borda,)
Tal. Kallam, Dist. Dharashiv.) **APPLICANT**

V E R S U S

- 1. The District Collector,**)
Collector Office, Dharashiv,)
Tal. & Dist. Dharashiv)
- 2. The Sub Divisional Officer,**)
Sub Division Office at Kallam,)
Tal. : Kalam, Dist.: Dharashiv.) **RESPONDENTS**

APPEARANCE : Shri Dhananjay Mane, learned counsel
for the applicant.
: Shri D.M. Hange, learned Presenting
Officer for the respondent authorities.

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

DATE : **29.07.2024.**

O R D E R

Heard Shri Dhananjay Mane, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally with consent at admission stage.

2. By filing this Original Application the applicant is seeking quashing and setting aside the order dated 24.05.2024 passed by the Sub Divisional Officer, Kallam thereby suspending the services of the applicant from the post of Police Patil, Khera, Tq. Kallam, Dist. Dharashiv.

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

(i) The applicant was selected for the post of Police Patil of village Kherda, Tq. Kallam, Dist. Dharashiv for the period of 18.07.2018 to 17.07.2023. The applicant has started performing his duties on the post of Police Patil. The respondent authorities have called the report from the Police Inspector, Police Station, Kallam and accordingly, the Police Inspector has given the report dated 26.07.2023 in favour of the applicant. The respondent –Sub Divisional Officer, Kallam after appreciating the report submitted by the Police Station, Kallam so also the earlier service rendered by the applicant renewed the earlier appointment of the applicant till 17.07.2023.

(ii) Pursuant to the said report 10.02.2024 submitted by the authorities, the Sub Divisional Office, Kallam had issued

show cause notice dated 14.03.2024 to the applicant by invoking the provision under Section (9) of the Maharashtra Gram Police Act, 1967 thereby calling upon the applicant to submit his explanation within a period of three days. The said notice was served on the applicant on 26.03.2024 and the applicant has submitted his detailed reply to the said show cause notice on 28.03.2024. However, by order dated 24.05.2024 the respondent-Sub Divisional Office, Kallam suspended the service of the applicant from the post of Police Patil of village Kherda, Tq. Kallam, Dist. Dharashiv. Hence, this Original Application.

4. Learned counsel for the applicant submits that the action against the applicant was initiated pursuant to the representation dated 26.09.2023, which was submitted by the accused in Crime Nos. 0265/2023 and 0272/2023 in which complaint came to be lodged by the applicant. Learned counsel for the applicant submits that the accused in the aforesaid crimes and their relatives have tried to defame the applicant. In fact the Police Station, Kallam has taken cognizance of the situation created in the village of Kherda about erection of illegal statue and accordingly, directed the

applicant to inform any illegal activities in this regard in the main area of the village.

5. Some of the criminal minded villagers have tried to construct the foundation so as to erect a flag. The applicant has immediately brought to the notice of Police Inspector, Police Station, Kallam the said aspect. Thus the said villagers got annoyed and threatened the applicant about the same. They also abused and assaulted the applicant. Thus the applicant was constrained to file the complaint and accordingly, Crime No. 0265/2023 came to be registered at Kallam Police Station for the offence punishable under Section 143, 147, 149, 323, 504, 506 of Indian Penal Code. Furthermore, about the threat given to the applicant near the Hanuman Temple on 24.06.2023, the applicant has also lodged the complaint and on the basis of which crime No. 0272/2023 on 25.06.2023 against the 7 persons came to be registered with the Kallam Police Station for the offence punishable under Section 353, 307, 324, 143, 147, 148, 149, 323, 504 and 506 of IPC. Learned counsel for the applicant submits that to counter the said registration of the crimes,

false representation has been submitted to the respondent – Sub Divisional Officer, Kallam.

6. Learned counsel for the applicant submits that in order to comply with the provision of Rule 9-A of the Maharashtra Village Police Patil (Recruitment, Pay, allowances and other conditions of services) Order 1968, the elaborate procedure is laid down which is to be complied with by the respondent authorities while imposing the penalty. In terms of the Rule 9A, the procedure required to be followed under Rule 8 and 9 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and no penalty shall be imposed on a Police Patil under any other clauses of the said Rule 9 unless the procedure prescribed under Rule 10 of M.C.S. (Discipline & Appeal) Rules, 1979 is followed.

7. Learned counsel for the applicant submits that the respondent No.2 i.e the Sub Divisional Office, Kallam has not followed the procedure as contemplated in Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and in view of same, the suspension order as penalty is liable to be quashed and set aside.

8. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent Nos. 1 and 2 submits that the respondent No.2 has made due enquiry and issued show cause notice as per the provisions of law. There are three criminal cases pending against the applicant in the JMFC Court. The applicant was unable to perform his duty. Further the Police Inspector, Kallam and Sub Divisional Police Officer, Kallam gave a report dated 10.02.2024 stating therein that the applicant should be removed from the post of Police Patil. Therefore, the clarification was sought from applicant as to why action should not be taken.

9. Learned Presenting Officer submits that so far as the renewal granted to the applicant for the post of Police Patil was initially on the report submitted by the concerned Police Inspector on 28.07.2023 and recent enquiry report is dated 10.02.2024. Both the reports are contrary and therefore, the direction was given to the concerned Police Inspector for submission of detailed report. Thus the Police Inspector has submitted detailed reply vide letter dated 19.04.2024 (Annexure 'R-2'). The said report dated 19.04.2024 indicates that the applicant is connected with the

political party and his behavior is not satisfactory. Thus the Sub Divisional Magistrate, Kallam has issued show cause notice following the due procedure of law after due inquiry.

10. Learned Presenting Officer submits that as per Rule (9) of the Maharashtra Village Police Act, 1967, the Police Patil is liable to be punished if he neglects to perform his duties. The said aspect has been proved against the applicant. It is the duty of the Police Patil to maintain peace and harmony in the village. On the other hand, the present applicant is creating nuisance and he is not doing the work in accordance with law. Thus the Sub Divisional Magistrate has come to the conclusion to suspend the applicant from the post of Police Patil. The impugned order is proper, correct and legal. The Original Application is thus liable to be dismissed.

11. It appears that certain crimes have been registered against the applicant who is working on the post of Police Patil of village, Kherda, Tal. Kallam, Dist. Dharashiv. So far as the Crime No. 268/2023 is concerned, the same pertains to the offence punishable under Section 341, 354, 354 (A), 323, 504, 506 and 34 of IPC and it is now pending in the court. Further two non-cognizable cases bearing NC /No.

355/2023 and NC/No. 743/2023 have also been registered in the concerned Police Station. Apart from that there is one more Crime bearing No. 176/2024 registered against the applicant for the offence punishable under Section 452, 354, 354 (D), 323, 504, 506, 34 of IPC.

12. On careful perusal of the report submitted by the concerned Police Inspector of Police Station, Kallam so also the Sub Divisional Police officer, Kallam it appears that the applicant reported to be connected with one political party in the village and therefore, there was likely to be creation of law and order situation in the ensuing elections. It has been specifically recommended that the applicant should be removed from the post of Police Patil of said village.

13. Though the learned counsel for the applicant has vehemently submitted that the said crimes registered against the applicant are the outcome of the complaint lodged by the applicant against some of the villagers and to counter the complaint lodged by the applicant, those crimes have been registered against the applicant, however it is not possible to consider the submissions for the reason that the said cases

are still pending in the court. But the facts remains that the character of the applicant is questionable.

14. I don't find any substance in the submissions made on behalf of learned counsel for the applicant that the procedure as contemplated under Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 has not been followed to impose the penalty of suspension. The respondent –Sub Divisional Officer, Kallam has issued the show cause notice to the applicant. Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 prescribes the procedure for imposing minor Penalties. Rule 10 of said Rules, 1979 reads as under:-

“10. Procedure for imposing minor Penalties.- (1) *Save as provided in sub-rule (3) of rule 9, no order imposing on a Government servant any of the minor penalties shall be made except after,-*

- (a) *informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;*
- (b) *holding an inquiry in the manner laid down in rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;*
- (c) *taking into consideration the representation, if any, submitted by the Government servant under clause (a) of this rule and the record of inquiry, if any, held under clause (b) of this rule;*

- (d) recording a finding on each imputation of misconduct or misbehaviour; and
- (e) consulting the Commission where such consultation is necessary.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation if any, made by the Government servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government's servant or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, [the words or to impose any of the penalties specified in clauses (v) and (vi) of sub-rule (1) of the rule (5)], an inquiry shall be held in the manner laid down in sub-rule (3) to (27) of rule 8, before making any order of imposing on the Government servant any such penalty.

(3) The record of the proceeding in such cases shall include-

- (i) a copy of the intimation to the Government servant of the proposal to take action against to him;
- (ii) a copy of the statement or imputations of misconduct or misbehaviour delivered to him;
- (iii) his representations, if any;
- (iv) the evidence produced during the inquiry;
- (v) the advice of the Commission, if any;
- (vi) the findings on each imputation of misconduct or misbehaviour; and
- (vii) the orders on the case together with the reasons therefor."

15. In the instant case clause (a) of Rule Sub Rule 1 of Rule 10 is applicable. It appears that the respondent-Sub Division Officer has not found that holding an enquiry in the manner laid down under Rule 8 is necessary. Though the applicant has submitted detailed explanation to the said show cause notice, however, the respondent authority has found

that the said explanation is not satisfactory and further considering the report submitted by the Police Inspector of Police Station, Kallam confirmed by the Sub Divisional Police Officer, Kallam and also considering the crime registered against the applicant, imposed penalty of suspension.

16. I agree with the only submission made on behalf of the applicant that in the impugned order dated 24.05.2024, the Sub Division Officer, Kallam has not made it clear that the said order would remain valid with outer limit of 1 year only. It is mentioned in the order that the penalty of the suspension inflicted on the applicant in terms of Section 9 of Maharashtra Gram Police Act, 1967 is until further orders. In the given circumstances and considering the detailed report against the applicant and the crime registered against the applicant so far the Sub Division Officer has taken the view to impose minor punishment on the applicant. It is open for the Sub Divisional Officer to proceed as per order dated 24.05.2024 and to consider the suspension of the applicant in future even without waiting for the period of one year.

17. In the circumstances and in view of submissions made by the respondent authorities, I find no substance in

the Original Application and the same is liable 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 Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 29.07.2024

SAS O.A. 575/2024 (S.B.) Police Patil (suspension).