

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****WRIT PETITION NO. 11512 OF 2015**

SURESH PANDURANG DHOPTÉ.

..PETITIONER.**VERSUS**THE STATE OF MAHARASHTRA
AND ANOTHER.**..RESPONDENTS.**

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Advocate for Petitioners : Mr.Mane Dhananjay A
AGP for Respondents/State: Mr.A.V. Deshmukh.

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CORAM : S.S. SHINDE & P.R.BORA, JJ.**Dated: 12th JANUARY, 2016.****PER COURT :-**

1. This petition has been filed with the following prayers:

“A] This writ petition may kindly be allowed and the circular/proclamation dated 3rd November, 2015 issued by the respondent No.2 for recruitment of Police Patil in Pathri division may kindly be quash and set-aside as it is against the mandatory norms of the Government resolution dated 29th August 1986 and 16th October 2008.

B] This Writ Petition may kindly be allowed and the respondent No.2 may kindly be directed to issue fresh proclamation for recruitment of post of Police Patil in Pathri Division, thereby following the mandatory

norms laid down in the Government Resolution dated 29th August, 1986 and 16th October, 2008 for recruitment of post of Police Patil.”

2. The learned Counsel for the petitioner invited our attention to the advertisement published by the respondents thereby advertising posts of Police Patil. It is submitted that, in view of the Government Resolution dated 29th August, 1986 issued by the State government, whenever posts are to be filled in, reservation should not exceed 50%. It is submitted that the said Government Resolution dated 29th August, 1986 fell for consideration before the Bombay High Court in case of **Nagesh A. Patil vs The Sub-Divisional Officer & Anr.** (Writ Petition No.4175 of 2007 decided on 25th June, 2007) wherein, the plea was taken that, only 50% of the posts can be filled in from amongst reserved candidates. It is submission of the learned Counsel for the petitioner that, the total posts advertised by the respondents for recruitment of Police Patil, if considered, the percentage of reserved posts exceeds 50% and, therefore, in view of the decision of this Court in case of **Nagesh A. Patil** (supra), it is not permissible for the respondents to go ahead with the appointment process with

the said advertisement since the overall reservation qua the posts advertised in the said advertisement exceeds 52%. It is submitted that the petitioner's grandfather was working as Police Patil of village Pohndul, Taluka Manwat, District Parbhani. Therefore, relying upon the pleadings in the petition, grounds taken therein, annexures thereto and the decision of this Court in case of **Nagesh A. Patil** (supra) and the relevant Government Resolution of which reference is made herein above, the learned Counsel for the petitioner submits that the petition deserves to be allowed.

3. On the other hand, learned AGP appearing for the State invited our attention to the averments in the affidavit-in-reply filed by the respondent No.2 and submits that, there are 166 total posts of the Police Patil for Pathri Sub Division and applying the ratio of 52% reservation, 88 posts are available for the candidates from reserved category and 78 posts are available for the candidates from open category. Keeping in view the posts occupied by the candidates from reserved category and open category, at the time of issuing the advertisement, 30 posts were available for the candidates from open category and remaining posts,

in order to maintain overall reservation of 52% are advertised for the candidates from reserved categories. Therefore, learned AGP submits that overall reservation does not exceed 52% and, therefore, the petition is devoid of any merits and the same may be rejected.

4. We have heard learned Counsel for the petitioner and learned Counsel AGP for State. With their able assistance, perused pleadings in the petition, annexures thereto and affidavit-in-reply filed by respondent No.2 and the decision of this Court relied upon by the Counsel for the petitioner. It is not in dispute that, there are 166 sanctioned / clear posts of the Police Patils made available in Pathri Sub-Division. Out of said 166 posts, throughout respondents have followed reservation and as stated by the respondent No.2 in the affidavit-in-reply, more particularly, in para 4 thereof, there are total 166 posts out of which 88 are for the candidates from reserved categories and 78 for open category candidates. The figures mentioned in the said chart unequivocally indicates that, 30 posts are available for the candidates from open category and remaining posts are available for the candidates from reserved categories, if

overall reservation of 52% is followed keeping in view the total 166 posts of Police Patil in Pathri Sub-Division. Therefore, keeping in view those total 166 posts, as rightly contended by the learned AGP, 88 posts will be available for the candidates from reserved categories and 78 for the candidates from Open Category. The overall reservation does not exceed 52%. Therefore, we do not find any substance in the contention of the learned Counsel for the petitioner that, the reservation exceeds 52% of the overall posts.

5. In that view of the matter, there is no substance in the petition. Hence, the petition stands rejected.

(P.R.BORA, J.)

(S.S. SHINDE, J.)