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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5253 OF 2016

The State of Maharashtra and anr. ... Petitioners
Vs.
Navnath V. Thite ... Respondent

Mr. P.G. Sawant, AGP for the State/Petitioner.
Mr. Manoj Patil for the Respondent.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.
DATE : JUNE 22, 2016

P. C.

1] The challenge in this petition is to the order dated 4 November 2015 made by the Maharashtra Administrative Tribunal (MAT) allowing the Original Application No. 433 of 2014 instituted by the respondent and directing the consideration of the respondent for appointment to the post of police constable.

2] Mr. P.G. Sawant, learned AGP for the petitioners, has submitted that the respondent had been charged with offences under Sections 452, 354 and 506 of the IPC and the acquittal of the respondent was based upon a compromise between the respondent and complainant. The learned AGP, therefore, contended that the

petitioners were justified in taking into consideration such circumstance and on the said basis declining to consider the respondent for appointment to the post of police constable. Learned AGP submitted that the instances, which have been referred to in the impugned order do not relate candidates, who were charged with serious offences concerning women. Therefore, learned AGP submitted that the MAT was not right, in commenting upon the approach of the petitioners or styling such approach as inconsistent. For these reasons, learned AGP submitted that the impugned order warrants interference under Articles 226 and 227 of the Constitution of India.

3] Upon due consideration of the submissions made by learned AGP for the petitioners, Mr. Manoj Patil, learned counsel for the respondent and upon perusing the record and the impugned order, we are satisfied that no case has been made out to interfere with the impugned order under Articles 226 and 227 of the Constitution of India.

4] The record indicates and there is no dispute whatsoever that the respondent, in his online application form submitted on 25 October 2011, himself, furnished the necessary information with regard to his acquittal by the learned JMFC, Pandharpur, Solapur on 7 February 2010. Thus, this is not a case where the respondent had

suppressed such particulars at the stage of seeking employment. Further, the respondent was permitted to take part in the entire selection process, in which, the respondent has secured 96 marks in the physical test and 61 marks in the written examination. On this basis, the respondent was selected, but his name was placed on the waiting list, considering the vacancy position. By the order which the respondent impugned in Original Application No. 433 of 2014, however, the name of the respondent was removed from such list, on the ground that the charges leveled against the respondent were quite serious and the acquittal of the respondent was not a clean one.

5] The MAT, in the impugned order, has noted that this was not a case where the respondent had suppressed any particulars with regard to the prosecution and consequent acquittal. Further, the record as well as the impugned order indicates that the petitioners have constituted a High Power Committee (HPC) in order to consider cases of this nature and such HPC, in very similar instances has cleared similar candidates for appointment, where, the candidates had disclosed the correct particulars in their application form or attestation form. For example, the candidature of Shrikant Devkate was considered, even though he was charged under Sections 341, 323, 324, 204 and 506 of the IPC and the case was compounded on account of compromise between the parties. In case of Kailas Sarsare and Sagar Raut, the charges were under Sections 498-A, 494 of I.P.C. Again,

these were cases involving offences against women. However, consequent upon acquittal, the candidature of such persons was duly considered by the HPC . The MAT has observed that there are several such cases that there is really no significant difference between such cases and the case of the respondent.

6] There can be no straitjacket formula that an acquittal based upon compounding or compromise is not a clean acquittal. The petitioners are required to apply their mind to the relevant considerations before determining suitability of the candidates. The petitioners, however, cannot adopt any inconsistent approach in such matters. The MAT, upon due analysis of the material on record, has set aside the order, which has declared the respondent has ineligible to be considered for appointment. There is neither any perversity nor any jurisdictional error in the making of the impugned order.

7] Upon cumulative consideration of the aforesaid facts and circumstances, we are satisfied that the impugned order does not warrant interference under Articles 226 and 227 of the Constitution of India. Accordingly, this petition is dismissed. There shall, however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]