

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION Nos.28458, 28576, 28442, 28505, 29476 & 28456 of 2017

COMMON ORDER::

The petitioners, desiring to join Police Department, submitted applications online, for the posts of Constable. Based on their academic acumen, physical fitness, they got through the written examination, physical efficiency test prescribed for the post and were selected provisionally. By the impugned proceedings dated 03-07-2017 and 19-08-2017, their provisional selection is cancelled considering them unsuitable for the post of Constable in the background of their involvement in criminal cases, nonetheless they have been acquitted by the Criminal Court. The case of the petitioner in WP No.28456 of 2017 is on a different footing as he is still facing trial and the criminal case is pending.

Briefly stated the facts, case wise is as under:-

2. Petitioner in WP No.28458 of 2017, in his explanation to the show cause notice dated 6-4-2017 stated that a case in Cr.No.114/2013 of PS Kanagal, was registered for the offences punishable under Sections 323, 324, 504 r/w.34 IPC. Petitioner states that in a family dispute with regard to landed properties, the adverse party to dictate terms, foisted false case against him and his family members. But with the intervention of the village elders, the matter was settled in Lok Adalat and he is acquitted in the matter. The details of the criminal case and his acquittal in the case was not disclosed by the petitioner in the application form.

3. Petitioner in WP No.28576 of 2017 was involved in a crime registered as Cr.No.82/2013 of PS Kethepally, for the offences punishable under Sections 447, 427, 504, 506 IPC. The petitioner was issued with two show cause notices dated 6-4-2017 and 16-05-

2017 seeking to cancel his provisional selection, for his involvement in the said crime, though the matter ended in acquittal, for suppression of information in the application submitted online. The explanation of the petitioner was that there were certain disputes over lands in the village between his father and others, and the complainant to ruin his career falsely implicated him in this case. It was further stated that he has mentioned the details of his involvement in the crime and his acquittal in the attestation form at the time of antecedents verification, but not in the application submitted online.

4. Petitioners in WP No.28442 & 28505 of 2017 charged for the offences punishable under Sections 354-D r/w.34 IPC and Section 12 of POCSO Act in Cr.No.25/2014 of PS Nakrekal. In their reply to the show cause notice dated 6-4-2017 it was stated that due to the wrong information given by the family

members of the complainant, a false case was foisted against them, but ultimately the criminal case ended in acquittal. The details of the criminal case and acquittal of the charges was disclosed in the application form submitted online by them.

5. Petitioner in WP No.29476 of 2017, in his explanation to the show cause notice dated 7-8-2017 stated that he was implicated in a false case and he was acquitted of the charge. The petitioner furnished the information of his involvement in the criminal case at the time of submitting application online and even at the time antecedents verification, the case was under trial and thereafter the case ended in acquittal. The provisional selection of the petitioner is sought to be cancelled on the ground that he was acquitted on benefit of doubt and it is not a clean acquittal.

6. Petitioner in WP No.28456 of 2017, in his explanation to the show cause notice dated 6-4-2017

stated that a case in Cr.No.82/2013 of PS Chandampet, was registered against him for the offences punishable under Sections 147, 148, 307, 324 r/w.149 IPC. It was stated that he was implicated in a false case as the complainant's brother was defeated in Sarpanch election and he bore against the petitioner and others as the petitioner belong to the same village, included his name along with 37 others in the complaint. Petitioner states that he never participated in any of the political activities, muchless involved in the crime alleged in the complaint lodged by the complainant. The details of the pending criminal case was disclosed by the petitioner in the application form submitted online.

7. The question of law involved in these cases is the sustainability of the impugned orders of cancellation of the candidature of the petitioners, on the grounds of suppression of fact, involvement in offences of moral

turpitude, who are otherwise eligible to join the services, having been provisionally selected.

8. The reason for not issuing appointment orders to petitioners in WP Nos.28458 & 28576 of 2017 is that they suppressed to mention in the application form submitted online, the information of involvement in the criminal case and their eventual acquittal of the criminal charges.

9. In respect of these petitioners, the factors which worked on the employer for cancellation of their provisional selection seems to be not because of their involvement in the criminal cases and their acquittal, but the fact that they had suppressed to mention the information as to their involvement in the criminal cases, as on the date of submitting the application forms, online.

10. It is settled proposition of law that verification of the character and antecedents of the candidate for



appointment is not an empty formality. Provisionally selected candidates cannot claim that they be appointed to the post on the basis of their qualification and performance only in the selection process notwithstanding the outcome of the verification process of character and antecedents. It cannot be disputed that the whole idea of verification of character and antecedents is that the person is suitable for the post in question is appointed. It is one of the important criteria which is necessary to be fulfilled before appointment is made. An incumbent should not have antecedents of such nature which may adjudge him unsuitable for the post. (see **AVTAR SINGH vs. UNION OF INDIA**<sup>1</sup>)

11. The issues that came up for consideration to streamline the conflict of opinions expressed in the various decisions of the Division Bench of the Supreme

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<sup>1</sup> 2016 (8) SCC 471

Court, as noticed in **JAINENDRA SINGH vs. STATE OF**

**U.P.**<sup>2</sup> and referred to Larger Bench, are as under:-

(i) Fraudulently obtained orders of appointment could be legitimately treated as voidable at the option of the employer or could be recalled by the employer and in such cases merely because the respondent employee has continued in service for a number of years, on the basis of such fraudulently obtained employment, cannot get any equity in his favour or any estoppel against the employer.

(ii) Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State and on account of his antecedents the appointing authority if find not desirable to appoint a person to a disciplined force can it be said to be unwarranted.

(iii) When appointment was procured by a person on the basis of forged documents, it would amount to misrepresentation and fraud on the employer and, therefore, it would create no equity in his favour or any estoppel against the employer while resorting to termination without holding any inquiry.

(iv) A candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services. Purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of verification of the character/antecedents at the time of recruitment and suppression of such material information will have clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

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<sup>2</sup> 2012 (8) SCC 748



(vi) The person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service.

(vii) The standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.

(viii) An employee on probation can be discharged from service or may be refused employment on the ground of suppression of material information or making false statement relating to his involvement in the criminal case, conviction or detention, even if ultimately he was acquitted of the said case, inasmuch as such a situation would make a person undesirable or unsuitable for the post.

(ix) An employee in the uniformed service pre-supposes a higher level of integrity as such a person is expected to uphold the law and on the contrary such a service born in deceit and subterfuge cannot be tolerated.

(x) The authorities entrusted with the responsibility of appointing Constables, are under duty to verify the antecedents of a candidate to find out whether he is suitable for the post of a Constable and so long as the candidate has not been acquitted in the criminal case, he cannot be held to be suitable for appointment to the post of Constable.

12. The Larger Bench constituted in **AVTAR SINGH's** case (1 supra) considered the varied opinions expressed in the previous decisions by the Supreme Court on the question of suppression of information as to

involvement in criminal case, acquittal/conviction in a case or submitting false information. With regard to the issue of suppression of information in the application form, as to the involvement in the criminal cases, though acquitted of the charges, with which we are concerned in the instant writ petitions, the Larger Bench made a reference of the earlier Division Bench decision of the Supreme Court rendered in **COMMISSIONER OF POLICE vs. SANDEEP KUMAR**<sup>3</sup> wherein Sandeep Kumar's candidature for the post of Constable was cancelled on the ground that he had concealed his involvement in the criminal case under Section 325 r/w. 34 IPC, when he was 20 years of age. The Division Bench in **SANDEEP KUMAR's** case (3 supra) quoted an English Case law in **MORRIS vs. CROWN OFFICE** (1970 2 QB 114), at para 8 of the decision mentioned thus:-

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<sup>3</sup> 2011 (4) SCC 644

*“.....When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.”*

13. In **AVTAR SINGH’s** case (1 supra), the question as to what importance is to be attached for suppression of information in the application form though the declarant has already been acquitted/convicted at the time of submission of application form is set out in paras 21, 22 & 27 of the judgment, in the following terms:-

*“21. The verification of antecedents is necessary to find out fitness of incumbent, in the process if a declarant is found to be of good moral character on due verification of antecedents, merely by suppression of involvement in trivial offence which was not pending on date of filling attestation form, whether he may be deprived of employment? There may be case of involving moral turpitude/serious offence in which employee has been acquitted but due to technical reasons or giving benefit of doubt. There may be situation when person has been convicted of an offence before filling verification form or case is*

pending and information regarding it has been suppressed, whether employer should wait till outcome of pending criminal case to take a decision or in case when action has been initiated there is already conclusion of criminal case resulting in conviction/acquittal as the case may be. The situation may arise for consideration of various aspects in a case where disclosure has been made truthfully of required information, then also authority is required to consider and verify fitness for appointment. Similarly in case of suppression also, if in the process of verification of information, certain information comes to notice then also employer is required to take a decision considering various aspects before holding incumbent as unfit. If on verification of antecedents a person is found fit at the same time authority has to consider effect of suppression of a fact that he was tried for trivial offence which does not render him unfit, what importance to be attached to such non-disclosure. Can there be single yardstick to deal with all kind of cases?

22. The employer is given 'discretion' to terminate or otherwise to condone the omission. Even otherwise, once employer has the power to take a decision when at the time of filling verification form declarant has already been convicted/acquitted, in such a case, it becomes obvious that all the facts and attending circumstances, including impact of suppression or false information are taken into consideration



while adjudging suitability of an incumbent for services in question. In case the employer come to the conclusion that suppression is immaterial and even if facts would have been disclosed would not have affected adversely fitness of an incumbent, for reasons to be recorded, it has power to condone the lapse. However, while doing so employer has to act prudently on due consideration of nature of post and duties to be rendered. For higher officials/higher posts, standard has to be very high and even slightest false information or suppression may by itself render a person unsuitable for the post. However same standard cannot be applied to each and every post. In concluded criminal cases, it has to be seen what has been suppressed is material fact and would have rendered an incumbent unfit for appointment. An employer would be justified in not appointing or if appointed to terminate services of such incumbent on due consideration of various aspects. Even if disclosure has been made truthfully the employer has the right to consider fitness and while doing so effect of conviction and background facts of case, nature of offence etc. have to be considered. Even if acquittal has been made, employer may consider nature of offence, whether acquittal is honourable or giving benefit of doubt on technical reasons and decline to appoint a person who is unfit or dubious character. In case employer comes to conclusion that conviction or ground of acquittal in criminal case would not affect the fitness for



*employment incumbent may be appointed or continued in service.” (emphasis added)*

*“27. Suppression of ‘material’ information presupposes that what is suppressed that ‘matters’ not every technical or trivial matter. The employer has to act on due consideration of rules/instructions if any in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases”.*

14. In the conclusion, at para 30 (4) (a) to (c) and (5), it was observed thus:-

*“(4) In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted: -*

*(a) In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its*

*discretion, ignore such suppression of fact or false information by condoning the lapse.*

*(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.*

*(c) If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.*

*(5) In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.”*

15. In the light of the above proposition, coming to the facts of the case of the petitioners in WP Nos.28458 & 28576 of 2017, they suppressed to mention in the application form submitted online, the information of involvement in the criminal case and their eventual acquittal of the criminal charges. The petitioners in these matters are involved in the crime which relates to landed properties in the village, the dispute was among

the family members of the petitioner (WP 28458 of 2017) and the matter settled in Lok Adalath, the other dispute relates to criminal trespass into the land of the complainant, which allegedly given to the petitioner (WP 28576 of 2017) and his family members for cultivation and the matter ended in acquittal by giving benefit of doubt.

16. Sri T. Srikanth Reddy, learned counsel for the petitioners contended that mere involvement in a criminal case is not a ground to disqualify them more particularly when they were acquitted honourably by the Court of law. It is also stated that the petitioners are not involved in any motivated crimes but they were the victims of the situations and emotions given their ages at mid 20s and, therefore, the employer, in its discretion, ought to have ignored such suppression of information of involvement in the crime and acquittal by condoning the lapse as the nature of offence even if

disclosed would not rendered the petitioners unfit for the posts of Constable. Division Bench decision of this Court in **CHAIRMAN & OTHERS vs. B. LOKESWARAIAH**<sup>4</sup> and unreported decision of Division Bench of Delhi High Court in WP (C) No.11979 of 2015 (Manoj vs. Union of India) are relied on.

17. Learned Government Pleader for Home appearing for the respondents submits that under Rule 12 (1) (a) (ii) of the Telangana State and Subordinate Services Rules, 1996 (Adopted), (for short, “the Rules”), for appointment to any service by direct recruitment, the character and antecedents should be such to qualify him for such post. Rule 3 (F) & (G) of the Police (SCT) Rules, 1999, also prescribes that a person charged with an offence involving moral turpitude is liable for disqualification and the same was set out in the notification dated 21-12-2015. Reliance is placed on

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<sup>4</sup> 2015 (2) ALT 628

the decisions of the Supreme Court in **AVTAR SINGH's** case (1 supra) and seeks to dismiss the writ petitions.

18. It is nobody's case that mere involving in a criminal case is a disqualification to compete for appointment to public posts. Clause 21 and 22 of the notification dated 19-02-2016 speaks of antecedents verification and disqualification for appointment in certain categories of situations. Clause 21 is self explanatory. Clause 22 (i) disqualifies a candidate for acts of suppression of material facts; 22 (v) disqualifies a person convicted for any offence in any Court of law and 22 (vi) disqualifies a person charged with offences involving moral turpitude. Admittedly, the petitioners were acquitted of the charges as on the date of the notification issued for selection to the posts of Constable. They have suppressed the fact of their involvement and acquittal in the criminal case.



19. Now the question germane for consideration is whether the fact of involvement in crime and acquittal suppressed is material for not allowing the petitioners to join the public service as Constables. The Supreme Court in **STATE OF MADHYA PRADESH vs. RAMASHANKER RAGHUVANSHI**<sup>5</sup> dealt with a similar situation where the termination order was passed on the basis of a report made by the Superintendent of Police to the effect that the petitioner had taken part in 'RSS and Jan Sangh activities.' There was no allegation of involvement in subversive activities. It was held that participating in such an activity was not likely to affect the integrity of the individual's service and to hold otherwise would be to introduce "*McCarthyism*" into India which is not healthy to the philosophy of the Constitution. It was mentioned therein by the Supreme Court that most students and most young men who take part in political activities, and if they do get

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<sup>5</sup> 1983 (2) SCC 145

involved in some form of agitation or the other, is it to be to their everlasting discredit ? Sometimes they feel strongly on injustice and resist. They are sometimes pushed into the forefront by elderly persons who lead and mislead them. Should all these young men be debarred from public employment ? Is Government service such a heaven that only Angels should seek entry into it ? Having posed these questions, the Supreme Court held that mere taking part in RSS and Jan Sangh activities will not affect the integrity of individual's service, dismissed the SLP filed by the State of Madhya Pradesh against order of the Madhya Pradesh High Court at Jabalpur which set aside the order of termination of the petitioner, who was a school teacher employed in a Municipal school.

20. Having regard to the nature of crime alleged against the petitioners instant case, there is no *mens rea* and appears to be situational and happened on the

spur of moment, there would not be any strong reason for the petitioners for not mentioning about their involvement in the crime and acquittal, other than the fear that if they mention, they would not be selected. Access to justice is a human right and so also the right to employment. In **LOKESWARAIAH's** case (4 supra), this Court categorically observed that mere involvement in a criminal case is not a ground to disqualify the petitioner more particularly when he is acquitted honourably by the Sessions Court. In un-reported decision of the Delhi High Court in WP (C) No.11979 of 2015, observed that a brush with the law should not disqualify a recruit of Police or civil services unless accusation relates to higher degree of crime and to take a contra view may be a serious violation of the constitutional right of a citizen to be fairly treated in matter of public employment if trivial offences

committed by citizen would justify the State denying the employment.

21. The decisions cited above are in tune of the decision in **AVTAR SINGH's** case. Therefore, in the light of the observations set out by the Supreme Court in **AVTAR SINGH's** case (1 supra) what is relevant is what is suppressed that 'matters' not every technical or trivial case, the offences charged against the petitioners being not such serious offences like murder, dacoity or rape, a lenient view deserves to be taken in the matter.

22. Petitioners in WP No.28442 & 28505 of 2017 charged for the offence of stalking, but the complainant turned hostile, failed to indentify the accused (petitioners) in the case and accordingly the petitioners were acquitted of the charge. Petitioners have disclosed the details of the criminal case and acquittal of the charge in the application forms submitted by them online.

23. It is true that law considers it unwise to appoint or continue in service, a person guilty of an offence involving moral turpitude. What constitute moral turpitude is nowhere defined conclusively. A plain reading of the dictionary meaning of the term “moral turpitude,” it is described that the conduct of a person that is considered contrary to community standards of justice, honesty or good morals or is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow man or society in general. One of the tests for determining the nature of the offence would be is to see whether it shocks the conscience of the public or the society at large. Whether an offence involves moral turpitude will depend on its nature and the circumstances in which it is committed. To illustrate, an offence of theft will generally be considered mean, vile and anti-social and a thief would be hauled up and handed over to the Police as he has committed theft with an intention for wrongful gain. However, if a starving person



steals food and caught, we tend to take a charitable and sympathetic view of the offender's conduct and the offence may not be considered as involving moral turpitude. The society may not consider his act to be a crime much less a crime involving moral turpitude. The case of every offence will have to be judged in the light of the circumstances in which it is committed. As has been held in catena of decisions of the Supreme Court, it is not the gravity of the offence or the quantum of punishment imposed on a person which will determine such question. In the instant case, it is the contention of the petitioners' counsel that the petitioners have no base intention to commit crime of stalking. The petitioners who are A-4 (petitioner in WP No.28442 of 2017) and A-1 (petitioner in WP No.28505 of 2017), along with two others, approached the complainant when she was waiting for bus, on bikes tortured her to love A-1 and if she did not respond, they would disturb her studies. In the trial, the complainant failed to indentify the accused (petitioners)

and the matter ended in acquittal. The petitioners did not suppress the fact of their involvement in the crime and their acquittal. All the accused including the petitioners are in the age group of mid 20s at the time of the alleged crime. Though ignorance of law is no excuse, their conduct will have to be judged in the light of the circumstances in which it is committed. As observed in **AVTAR SINGH's** case (1 supra), in their young age, people often commit indiscretions. It is not that every indiscretion should be condoned, but only such of the offence, if the affect thereof is minimal and condonable from the point of view of a common man. In this case though the petitioners are charged with the offence of stalking, no conviction could be recorded against them.

24. Therefore, once the petitioners are acquitted, the intention or ignorance, proportionality of crime and their motive, matters little. Hence, the petitioners' case deserves to be re-examined.

25. Petitioner in WP No.29476 of 2017, is charged with electoral offences punishable under Sections 171 (B), (E) IPC, and though he is acquitted, his provisional selection is cancelled on the ground that his acquittal is not a clean acquittal, but was acquitted on benefit of doubt and offence involved is an offence of moral turpitude. Sri G. Vidyasagar, learned senior counsel representing learned counsel for the petitioner contended that whether it is acquittal on account of benefit of doubt or clean acquittal, the appointing authorities cannot sit over the judgment of the Court and do their own interpretation and denying appointment would be like vicarious punishment, which is impermissible. It is also contended that without coining the gravity of offence, branding him to be involved in an offence of moral turpitude is wholly unsustainable. Decision in **JOGINDER SINGH vs. UNION TERRITORY OF CHANDIGARH**<sup>6</sup> relied on.

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<sup>6</sup> 2015 (2) SCC 377

26. The petitioner in this case was charged for the offences under Sections 171(B) and 171 (E) IPC. 171 (B) defines "bribery" and 171 (E) provides for punishment for committing the offence under Section 171 (B) IPC. It is an electoral offence. Facts of the case, though not relevant, but are interesting to note. In local body elections for the post of Sarpanch of Kothapally village, in view of stiff competition, the villagers of the village conducted auction for Sarpanch post, A-1 and his group of 17 others (including the petitioner A-8) participated and A-1 seems to have bid the post for Rs.21 lacs. The crime was registered based on a newspaper statement, after seven days of its publication. The criminal Court acquitted all of them by giving benefit of doubt. It is to be seen that Law does not differentiate whether it is a "clean acquittal", whether it is "honourable acquittal" or "acquittal based on giving benefit of doubt". It is also not been

distinguished what is "clean acquittal", "honourable acquittal" or "acquittal based on giving benefit of doubt" in Code of Criminal Procedure or Indian Penal Code. The dictionary meaning of the term "acquittal" means that a person is not guilty of a crime, with which he has been charged. It is to be seen that when once there is no difference between "clean acquittal", "honourable acquittal" or "acquittal based on giving benefit of doubt," the accused (petitioner) acquitted by giving benefit of doubt is to be construed that prosecution was not able to prove its case beyond doubt. Once the petitioner has been acquitted, the entire crime registered against him goes.

27. In **JOGINDER SINGH's** case (6 supra) the Supreme Court dealing with the similar like case observed as under:-

*"26. Thus, we are of the opinion that the alleged past conduct of the appellant in relation to the criminal case will not*



*debar or disqualify him for the post of the Constable for which he was successfully selected after qualifying the written test, medical test and the interview conducted by the selection authority. Further, as stated by us earlier, there has been no concealment of any relevant fact from the respondents by the appellant. The respondents were thus not justified in denying the said post to the appellant. The conclusion arrived at by them is not cogent and lacks proper application of mind.”*

28. The petitioner in the instant case was in the age group of 24 years at the time of the alleged crime. It is not that all the persons involved in crimes at young age should be extended concessions, but as observed in **AVTAR SINGH’s** case, (1 supra) in young age, people often commit indiscretions due to lack of maturity. In this case the petitioner has done B.Tech (Electronics & Communication) and is vying for the post of Constable. Poverty multiply vagaries of life. Vagaries of life are many. It is all about making peace with fear, failures and frustrations when you expect the contrary. Sometimes societal fascinations misled and manifest on young

people. In para 23 above, I have discussed on the issue “moral turpitude” and it is sufficient for this case also.

In the circumstances, this case is also a fit case where the case of the petitioner is to be re-examined.

29. The petitioner in WP No.28456 of 2017 is still facing trial in Cr.No.82 of 2013 of PS Chandampet. The explanation of the petitioner is that he was implicated in a false case as the complainant's brother was defeated in Sarpanch election and he bore against the petitioner and others who are villagers of the same village where complainant's brother was defeated in Sarpanch election. The information as to the criminal case pending was disclosed by the petitioner in the application form submitted online. Unless the contrary is proved the accused is deemed to be innocent. Two views are always possible. Even if the petitioner is convicted of the offence, still as enunciated by the Supreme Court in **AVTAR SINGH's** case (1 supra),

subject to satisfaction of the appointing-authority and it is for the appointing-authority, by applying the principles laid down, exercise discretion to continue or terminate services of the delinquent. Having regard to the nature of the offence alleged against the petitioner and the petitioner was aged 25 years and was student as on the date of the alleged crime, the case of the petitioner deserves to be considered. However, any concession extended to the petitioner at this stage will be subject to the result in the criminal case in SC No.107 of 2016 and the petitioner shall not plead equity if he is not fit to be continued in service later, even though if he is acquitted or convicted.

30. It is also to be seen that pursuant to the show cause notices issued to the petitioners and their submitting explanations, no reasons are stated in cancelling the provisional selection of the petitioners

except stating that they involved in criminal case, suppression of involvement in criminal case and pendency of criminal case. It is not stated how in the light of the involvement of the petitioners in the criminal cases and acquittal therein make them unsuitable to hold the posts of Constable when they are otherwise eligible for the said posts.

31. For the reasons stated above, the impugned proceedings dated 03-07-2017 and 19-08-2017 whereby and whereunder the provisional selection of petitioners is cancelled is hereby set aside so far it relates to petitioners. The case of the petitioners be considered in terms of the guidelines given by the Supreme Court in **AVTAR SINGH's** case (1 supra) and also on the lines of the discussion made hereinabove. The writ petitions are accordingly allowed to the extent indicated above. Miscellaneous petitions, if any pending

in these petitions are disposed of. There shall be no orders as to costs.

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***A.RAJASHEKER REDDY, J***

Dated: 06-12-2017  
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**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

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