

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**WRIT PETITION NO. 9331 OF 2018**

Krushna Suresh Wadhe .. Petitioner

**Versus**

The State of Maharashtra and others .. Respondents

Shri.Rakhunde, Advocate h/f Mr. S. B. Bhapkar, Advocate for Petitioner.

Shri. K. S. Patil, A.G.P. for Respondent/State.

**CORAM : S.V. GANGAPURWALA AND**

**R. G. AVACHAT, JJ.**

**DATED : 29<sup>th</sup> November, 2018**

**PER COURT:**

. The petitioner had challenged the candidature of the present respondent no. 3 for the post of Police Patil. The Tribunal dismissed the Original Application filed by the present petitioner, aggrieved thereby the present writ petition.

2. Mr. Rakhunde, the learned counsel for the petitioner submits that the court has failed to consider the advertisement, so also the

Government Resolution dated 07.09.1999. The respondent at the relevant time when the advertisement was issued was a member of Bhartiya Janata Party (Political Party). As per clause 6 of the advertisement, he was incompetent to apply for the post of Police Patil. The learned counsel submits that Respondent No. 3 was also the member of the Gram Panchayat and he submitted his resignation subsequent to the filing of the application. According to the learned counsel, on both these grounds the Respondent No. 3 was not eligible to be considered for the post of Police Patil. The appointment of Respondent No. 3 be set aside.

3. We have heard the learned A.G.P. also.

4. Clause 6 of the advertisement requires candidate to give an undertaking on Rs. 100/- Stamp Paper that he is not connected with any political party. When no date is prescribed in the advertisement, the cut off date would be the date of filing application. The petitioner filled in the application pursuant to the advertisement on 18.11.2015. Prior to that on 03.10.2015 the petitioner submitted his resignation as a member of the political party. The resignation was accepted by the political party on 04.10.2015. In view of that, on the date the respondent submitted his application for the post of Police Patil he was not a member of any

political party as his resignation was already accepted. There is no other clause in the Advertisement pointed out by the learned counsel with regard to the member of the Gram Panchayat. The Government Resolution dated 7<sup>th</sup> September, 1999 provides that the Police Patil is not entitled to engage in politics or to be a member of any local body. The petitioner on the date when he was appointed as Police Patil had already resigned as a member of the Gram Panchayat. The resignation as a member of the Gram Panchayat was tendered on 30.12.2015 and the same was accepted on 25.02.2016. The respondent was appointed as Police Patil on 28.04.2016.

5. Considering the above, no error has been committed by the Tribunal. The writ petition is dismissed. No costs.

**[ R. G. AVACHAT, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

ass/wp 9331.18