

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

WRIT PETITION NO. 14721 OF 2017

Narayan Ramrao Nirval

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri P. S. Paranjape, Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 07TH FEBRUARY, 2018.

FINAL ORDER :

. The petitioner assails the order of suspension and also the judgment and order of the Maharashtra Administrative Tribunal, Bench at Aurangabad (for short "Tribunal") dismissing the original application.

2. We have heard Mr. Paranjape, the learned advocate for the petitioner and Mrs. Deshpande, the learned Additional Government Pleader for respondent Nos. 1 to 3.

3. The petitioner was appointed as Police Patil of village Rudhi, Tq. Manwat, Dist. Parbhani on 16.04.1990. His service as

police patil is extended from time to time. The petitioner was suspended on 24.06.2016 on the ground that, while officiating as police patil, the petitioner was also engaged in employment with other department. The petitioner assailed the said order before the Tribunal by filing original application. The Tribunal dismissed the original application. Aggrieved thereby present writ petition.

4. According to Mr. Paranjape, the learned advocate for the petitioner, the service of the petitioner with the postal department is a part time employment and the said employment in no way affects the working of the petitioner as police patil. The Tribunal has misread the provisions of the Maharashtra Police Patil Act, 1967 and the Rules thereunder. According to the learned counsel, even the departmental enquiry is not initiated against the petitioner.

5. The learned Additional Government Pleader submits that, the petitioner has engaged in employment with postal department. The same is against the provisions of the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and Other Conditions of Service) Order 1968. Before passing an order of suspension, the petitioner is given opportunity of hearing. This aspect has been rightly considered by the Tribunal.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. The petitioner is placed under suspension on 24.06.2016 almost one and half year back. We had asked the learned Addl. G. P. about initiation of department enquiry against the petitioner, the learned Addl. G. P. on instructions states that, the respondents have not taken any steps for initiation of departmental enquiry against the petitioner.

8. No purpose would be served by keeping the petitioner under suspension. The suspension would be necessary, if it is for initiation of departmental enquiry or suspension is by way of punishment. We do not find that the suspension is by way of punishment.

9. Considering the fact that, for almost one and half year the petitioner is under suspension and no departmental enquiry is initiated against the petitioner and the employer is not taking any steps for initiation of departmental enquiry or otherwise the order suspending the petitioner is not sustainable.

10. Considering the above, we pass following order.

11. The order of suspension stands revoked. In case the

respondents initiate any departmental enquiry against the petitioner, then the respondent/employer is entitled to take further course of action as is permissible in law. On account of revocation of suspension, consequential benefits would follow. The writ petition is disposed of. No costs.

[A. M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 18