



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

WRIT PETITION NO. 10108 OF 2024

Swapnali w/o Sandip Patil

....Petitioner

Versus

The State of Maharashtra, through
Secretary and others

.....Respondents

.....

Mr. V. R. Jain, Advocate for the Petitioner

Mr. S. K. Tambe, AGP for Respondents - State

.....

**CORAM : NITIN JAMDAR &
RAVINDRA V. GHUGE, J.J.**

DATE : 18 SEPTEMBER, 2024

P.C.:

. The Petitioner is aggrieved by the order passed by the learned Maharashtra Administrative Tribunal, Mumbai, dated 06/08/2024, rejecting Original Application No.853/2023, filed by the Petitioner. The Petitioner filed the Original Application challenging the order dated 26/08/2023, passed by the Sub Divisional Officer, Bhusawal, Dist. Jalgaon. The Petitioner had applied pursuant to the Advertisement for the post of 'Police Patil'. The Petitioner had passed the written examination and was called

for an interview. Complaints were lodged against the Petitioner on the ground that the Petitioner had more than two children on the relevant date, and therefore, did not fulfill the condition at Clause No.6 of the Advertisement, pursuant to which, the Petitioner had applied. Complaint was accepted and the Petitioner was thereafter held to not entitled for the post.

2. We heard the learned Counsel for the Parties.

3. The Tribunal has followed the decision rendered by the Division Bench at Nagpur in the case of *Khairunisa Sheikh Chand Vs. Chandrashekhar Daulatrao Chincholkar & Ors. (Writ Petition No.2482/2023)*. The Division Bench in the context of female (such as the Petitioner) has held that the 'Children' would include the one born from the previous wedlock. The contention of the Petitioner is precisely this that the Petitioner had one child from her earlier marriage and two from her second wedlock and therefore should not be considered as an impediment. This having been squarely answered by the Division Bench, we find no error in the decision taken by the Tribunal.

4. The learned Counsel for the Petitioner sought to contend that the decision in the case of *Khairunisa Sheikh Chand (supra)* was in the context of the disqualification under the Maharashtra Village Panchayats Act, 1959 and not service related matter such as present one. However, except only stating this, no fundamental differentiating features have been pointed out as to why the decision of this Court construing the policy of having two children should be restricted only to the case of disqualification but not in the matter of employment. That being the position, there is no merit in the Petition. The Petition is accordingly rejected.

(RAVINDRA V. GHUGE, J.)

(NITIN JAMDAR, J.)