



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

WRIT PETITION NO. 2728 OF 2025

**SUJATA RAMRAO SOMWANSHI
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS**

...
Advocate for Petitioner : Mr. Gaikwad Anil M.
AGP for Respondents/State : Mr. S.R. Yadav Lonikar
Advocate for Respondent No.4 : Mr. Joslyn Anthony Menezes

...

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 7th MARCH 2025

PER COURT :

1. Heard the learned Counsel for the petitioner, learned AGP for the State and learned Counsel for Respondent No.4.
2. The Petitioner has impugned judgment and order of the learned Maharashtra Administrative Tribunal, Mumbai bench at Aurangabad dated 05.02.2025 in Original Application No.679/2024.
3. Respondent No.4 had applied for the post of Police Patil. The State has invited the applications for the post of Police Patil in Sub-Division Nanded District. The applications were invited online. Respondent No.4 had also applied. After the scrutiny and other qualifications, she was appointed as Police Patil for Village Shirshi

(Kh), Tq. Kandhar, District Nanded. Before the appointment order was issued, the Petitioner raised the objection that Respondent No.4 is ineligible, because she is an accused for the offences punishable under Sections 494 and 498 of the Indian Penal Code. The complaint was lodged with Respondent No.3 who was the appointing authority. He heard both sides and held Respondent No.4 disqualified to be appointed as Police Patil and appointed the Petitioner as Police Patil. Respondent No.4 approached the learned Maharashtra Administrative Tribunal, challenging the order of Respondent No.3. After hearing both sides and considering relevant provisions of law, the learned MAT held that the allegations levelled against Respondent No.4 does not fall under Clause e of Section 3 of the Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968 (for short Order of 1968). A specific observation is also that Clause 3(e) does not reveal that registration of any criminal case could be disqualification to appear in the recruitment process for the post of Police Patil. Further the Government Resolution dated 26.08.2014 was also referred to which gives the list of the offences, disqualifying the appointment for the post of public servant for Grade-C and Grade-D post. The illustrative offences which are pending and concluded have been reproduced. Examining this Government Resolution with relevant sections of the Acts mentioned therein, it has been observed that the offence pertaining to Section 494 is not referred to in the said Annexure attached to the Government Resolution dated 26.08.2014. The Petitioner had also objection that Respondent No.4 has suppressed

the pendency of the crime at the time of filing online application.

4. The Respondent No.4 had a case that the offences registered against her are not directly connected with the bad character which is disqualification under clause (e) of the Order 1968. She has also the case that in an advertisement there was no clause asking to submit information about the pendency of offence and conviction in any crime.

5. Heard the learned Counsel for the Petitioner. It is reiterated that Respondent No.4 has suppressed the material fact of pendency of the offences which are related to character. The advertisement condition no.4 is that applicant should be physically fit and his character should be unblemished. He would also argue that sub-clause (e) of Section 3 of the Order 1968 is divided into two parts, firstly the candidates who have been adjudged after the summary scrutiny by the competent authority found to be of bad character, or in the opinion of that authority, such antecedents as render him unsuitable for employment as Police Patil, are distinct grounds for disqualification. He would also submit that the list of the offences given in Annexure-A with Government Resolution dated 26.08.2014 is illustrative, the Court cannot ignore the offences against the Petitioner. He would also argue that crime registered against such aspirant should be tested pursuant to the duties to be discharged by such employee. Police Patil is an officer of the Village who has to work under the Supervisor and direction of the Executive Magistrate.

He has to inform every crime happened at the earliest correctly and fairly. If the Petitioner is facing the offences under Sections 494 and 498A, she may not discharge the duties appropriately. On this count, she was disqualified to be selected and appointed as Police Patil. He has vehemently argued that the act of ill-treating a woman by family member and participating in illegal marriage has direct connection with character. Therefore registration of the crime against Respondent No.4 for the said offences disqualify her. However, learned MAT has misinterpreted the law and recorded incorrect finding in the Annexure-A to the Government Resolution dated 26.08.2014. Section 494 is not referred to. Hence, it is not said to be related to character. He placed the reliance on the case of **Rajendra @ Raju Sheshrao Dalvi Vs. State of Maharashtra and Ors.**, 2015(4) Bom.C.R. 631. In this case, the Petitioner was disqualified for unfair declaration of small family. It was transpired that he had two wives and two children from each. However, he did not disclose this fact and submitted the false declaration that he has a sole wife and two children. Considering the provisions of law, this Court dismissed the Writ Petition by quashing the judgment and order of the learned MAT. He would pray to allow the petition and quash and set aside the impugned judgment and order of the learned MAT.

6. Per contra, learned Counsel for the contesting Respondent has pressed into service the Government Resolution dated 26.08.2014 and argued that the nature of crimes has been given into two parts. In some of crimes even the pendency of the trial is a disqualification

and in some crimes conviction is the disqualification. However, in the case hand the trial against the petitioners are pending. The petitioner's relation with the complainant is important. She was the sister-in-law of the complainant, in other words she was a wife of her brother-in-law. They were residing jointly and the crime was registered long back in 2014 and 2017. He would also refer to clause (e) of Section 3 of the Order 1968 and argue that the competent authority can decide the eligibility of the appointment on the basis of the summary inquiry about the character and the incident like. Therefore, this clause is not divided into two parts. The advertisement clauses were silent about furnishing data of conviction as well as the pendency of the trial. Hence, it could not be said that the petitioners have deliberately suppressed the fact and deserve to be disqualified. The reasons of the MAT are in-consonance with the law and the directions issued by the Government. The SDO made the inquiry and mechanically passed the order holding that the respondent no.4 is not qualified only for the reason that the crime is pending against her. He would support the impugned judgment and order and prayed to dismiss the petition.

7. We have gone through the advertisement referred to by the learned Counsel for the petitioner. The advertisement is completely silent about the disclosure of the pendency of the crime or conviction for any offence. Since this was not the condition for filing online application, it is difficult to accept the argument of learned Counsel for the petitioner that Respondent No.4 had deliberately suppressed

the fact or pendency of the crime. So far as the Clause V of the advertisement is concerned, it requires that the character of the applicant should be unblemished. That means that the person should be of a good character. Character is tested from human behavior. How the person behaves in the society and gets position in the society. Normally, a person who is not coming innocence anybody and obey the law is said to be a man in good character. The advertisement also did not sought any character certificate at the time of filing online application. Hence we do not find substance in the argument of learned Counsel for the petitioner.

8. The next crucial point is about Clause 'e' of Section 3 of Order 1968. For ready reference, we reproduce it :

“3. Eligibility for appointment : No person shall be eligible for being appointed as a Police Patil, who -

(a)....

(e) is adjudged by the competent authority after a summary inquiry to be of bad character, or has, in the opinion of that authority, such antecedents as render him unsuitable for employment as Police Patil.”

9. For disqualifying the person to the appointment of Police Patil, he must have a good character or his antecedents must not be unsuitable for the employment as a Police Patil. Even the argument of learned Counsel for the petitioner Mr. Gaikwad is accepted that the antecedent has no co-relation with the crime only, the test is of the conduct. Pursuant to this provision we have to test whether the

offence under Sections 494 and 498A of IPC are related to character of human being. Offence under Sections 494 and 498A of IPC, rather focus on the act of bigamy (Section 494 and cruelty towards a woman by husband or his relatives). Meaning the criminal act is adjudged based upon the actions taken not necessarily the individuals over all moral character. Considering the nature of the offence registered against Respondent No.4, those are related to the matrimonial disputes. The relation between the complainant and the Respondent No.4 is also significant. The complainant and the petitioner were residing in joint family. She had some dispute with her husband. Therefore, as informed by the Counsel for the Respondent, she left the home in 2008 and after around 6 to 7 years, she lodged the offences unnecessarily implicating Respondent No.4. At the cost of repetition, we reiterate that the offence registered against respondent no.4 is to be adjudged on the basis of action taken and it has no concern with individual's over all character. Hence, we are of the opinion that the offence under Sections 494 and 498 of IPC are not directly related to the person's character. Except this crime, there was no material before Respondent No.3 to assist the antecedents. In the absence of such material, allegations of antecedent rendering her unsuitable for employment could not be accorded. So far as the case law relied by the petitioner is concerned, we have already discussed the facts with the case. Those facts were altogether different and directly connected with a person who was appointed as Police Patil.

10. Learned Counsel for the petitioner is right in arguing that the list of offences referred to Annexure A to Government Resolution dated 26.08.2014 is illustrative. So while considering the issue involved in the case like this, the Court has to examine the facts and the acts of the parties concerned to decide the character of the person who has been or is to be appointed as Police Patil. We have elaborately discussed the relevant Clause (e) of Section 3 of Order 1968. Hence we do not reiterate the same. We are convinced that mere registration of the crime under Sections 494 and 498 of IPC against Respondent No.4 does not disqualify her from the appointment as Police Patil and there is no bar of Clause (e) of Section 3 of the Order 1968. We have also examined the impugned judgment and order of the learned MAT with the able assistance of both side Counsels. We find no error in the impugned judgment. No illegality has been committed. There are no grounds to interfere with the impugned judgment and order. Hence, we pass the following order :

ORDER

- (i) Writ Petition stands dismissed.
- (ii) No order as to cost.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]