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

WRIT PETITION NO.8474 OF 2019

Raosaheb s/o Jagannath Khairnar ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. Amol S. Sawant, Advocate for petitioner
Mr. S.J. Salgare, A.G.P. for respondents No.1 to 3
Mr. Vijay B. Patil, Advocate for respondent No.4
.....

WITH

CIVIL APPLICATION NO.3958 OF 2024 IN
WRIT PETITION NO.8474 OF 2019

Yogesh Kashinath Sonawane ... **APPLICANT**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. Vijay B. Patil, Advocate for applicant
Mr. S.J. Salgare, A.G.P. for respondents No.1 to 3
Mr. Amol S. Sawant, Advocate for original petitioner in W.P.
.....

WITH

WRIT PETITION NO.12550 OF 2019

Raosaheb s/o Jagannath Khairnar ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. Amol S. Sawant, Advocate for petitioner
Mr. S.J. Salgare, A.G.P. for respondents No.1 to 3
Mr. Vijay B. Patil, Advocate for respondent No.4
.....

**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 3rd DECEMBER, 2025

ORDER :

Rule. Rule made returnable forthwith and taken up for final hearing at admission stage.

2. Heard. Both these Writ Petitions are taken up together since they are interconnected.

3. The challenge in the Writ Petition No.8474/2019 is to the judgment and order dated 8/7/2019, passed by the Maharashtra Administrative Tribunal (MAT), Bench at

Aurangabad in Original Application, No.867/2018. While the Writ Petition No.12550/2019 has been preferred with the following main relief :

- A) The Hon'ble High Court may be pleased to direct the respondent No.3 Sub-Divisional Officer, Dhule Region, Dhule to decide the representation submitted by the petitioner dated 23/07/2019 by conducting an enquiry within stipulated period and further be pleased to pass necessary orders for the said purpose.

FACTS :-

4. An advertisement dated 14/8/2018 was published for filling up a post of Police Patil of the village Dusana, Taluka Sakri, District Dhule. In response to the advertisement, the petitioner in both the petitions and the applicant in Original Application (No.867/2018) preferred applications along with others as well. Both of them first appeared for written examination and then interviewed. Both, the petitioner and the original applicant secured equal marks i.e. 79 out of 140. As a case of tie-breaker, the petitioner was given preference on account of he being a graduate, holding higher educational qualification.

5. The original applicant approached the MAT, challenging the petitioner's appointment. The grounds raised therein were :-

- (1) The petitioner to have been given double benefit for one and the same qualification. In short, according to the original applicant, the petitioner being graduate, was given 4 marks. Again he was given preference on account of being graduate and this being violative of Article 14 of the Constitution of India.
- (2) The petitioner to have supplied false information in the nature of claim of being a heir of a Police Patil.

6. The petitioner herein countered the Original Application, contending that, the applicant was not Mr. Clean. He relied on a false, fabricated and forged Sports Certificate and secured two marks. The petitioner had urged the MAT for directions to enquire into the matter as to obtaining a false and forged Sports Certificate and making use thereof in the process of recruitment for the post of Police Patil. The MAT, having found to have no jurisdiction to grant such relief,

directed the petitioner herein to have recourse to appropriate proceedings before appropriate forum. The petitioner, therefore, preferred Writ Petition No.12550/2019 before this Court.

7. According to the learned counsel for the petitioner, the MAT, on its own framed the issue as regards the petitioner to have secured double benefit on the ground of his educational qualification. He would submit that, the advertisement contained a clause that in case of candidates securing equal marks, the Government Resolution dated 22/8/2014 would be resorted to. The original applicant having participated in the recruitment process, could not thereafter be permitted to turn around and challenge the said process. According to him, it was in fact not a case of double benefit. The petitioner being graduate in Arts stream, was granted four marks and when both secured equal marks, in view of the Government Resolution stated hereinabove, the petitioner being graduate, was given preference over the claim of the original applicant. The said clause in the Government Resolution, therefore, could not be termed to be violative of

Article 14 of the Constitution of India. More so, when there was no challenge thereto at the instance of the original applicant.

8. On other grounds, the learned Advocate would submit that, it was the mistake on the part of the petitioner to fill in the column pertaining to whether the applicant was an heir of Ex-Police Patil. According to him, during verification of the documents, the petitioner himself informed the recruitment authority/ Sub-Divisional Magistrate that it was his mistake and the authority i.e. Sub-Divisional Magistrate accepted the same and issued the petitioner with an order of appointment. According to learned Advocate, when the employer i.e. the recruitment authority has either condoned the so called minor lapse/ mistake, the original applicant could not take benefit thereof. He, therefore, urged for allowing both the Writ Petitions.

9. The learned Advocate for the original applicant would, on the other hand, submit that, the applicant had supplied false information, claiming to be an heir of Ex-Police

Patil. According to him, by furnishing such misleading information, it was an attempt on the part of the petitioner to secure the post. After having realised that he could not produce any document to prove his claim, it was but natural for him to come with a false defence of this being a mistake. The learned Advocate adverted our attention to the verification clause at the bottom of the application for the post of Police Patil. In terms of the said clause, the applicant has stated that all the information filled in the application is true and correct to the best of his knowledge, and if the same was found to be incorrect, he would be liable for appropriate action and even for rejection of his candidature. According to the learned Advocate, this verification clause would come in the way of the applicant. The MAT has rightly observed the petitioner to have supplied with false information and has, therefore, rightly non-suited. He would further submit that, once the petitioner was granted four marks on account of he being a graduate in the Arts stream, he ought not to have been given a further concession/ preference on the same count. According to him, the MAT has, therefore, rightly observed it to be a case of

double benefit of one and the same provision, which is not permissible and the same is discriminatory. So as to make out his claim of having moved the Original Application on the said ground as well, he adverted our attention to the certain pleadings in that regard in his Original Application. Then he relied on paragraph No.10 of the Apex Court judgment in case of **Andhra Pradesh Public Service Commission Vs. Koneti Venkateswarulu, 2005 AIR (SC) 4292**, which reads thus :

“10. We are unable to accept the contention of the learned counsel for the First Respondent. As to the purpose for which the information is called, the employer is the ultimate judge. It is not open to the candidate to sit in judgment about the relevance of the information called for and decide to supply it or not. There is no doubt that the application called for full employment particulars vide Column 11. Similarly, Annexure III contained an express declaration of not working in any public or private employment. “10. We are also unable to accept the contention that it was inadvertence which led the First Respondent to leave the particulars in Column 11 blank and make the declaration of non-employment in Annexure III to the application. The application was filled on 24.7.1999, the examination was held on 24.10.1999, and the interview call was given on 31.1.2000. At no point of time did the First Respondent inform the appellant commission that there was a bonafide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant commission

discovered by itself that there was suppressio veri and suggestio falsi on the part of the First Respondent in the application that the respondent came forward with an excuse that it was due to inadvertence. That there has been suppressio veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated from inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of Kendriya Vidyalaya Sangathan (supra) and contending that a person who indulges in such suppressio veri and suggestio falsi and obtains employment by false pretence does not deserve any public employment. We completely endorse this view.”

10. The learned Advocate then tried to distinguish the judgment of the Apex Court relied on by learned Advocate for the petitioner. According to him, the facts of the said case would indicate the petitioner therein had himself approached the authority concerned and informed in writing of his mistake. The said reporting was made long before the order of appointment was issued in favour of the petitioner therein. On the ground of relying on a false and forged certificate, he relied on certain communications made by Nehru Yuva Kendra, Dhule, affidavit of Ram and Shyam Kanade, who claimed to have participated in Wrestling Competition that was held in the year 2008. The Sports Certificate relied on by the original

applicant is to the effect that the applicant stood second in the Wrestling Competition of 60 Kg. group held at Dhule. Whereas the petitioner placed on record certain communication issued by the said Sports Organisation, informing that, as per their record, first and second number in the said competition was secured by Shyam and Ram respectively. The learned Advocate, therefore, adverted our attention to the affidavit of Ram and Shyam, filed by the petitioner, stating therein that, it was the petitioner who stood second in the said competition.

11. These facts need a deeper probe. We, however, propose to leave the said issue at that, in view of the fact that we are allowing the first Writ Petition in the light of the reasons given hereafter.

12. We have considered the submissions advanced. Perused the order impugned herein.

13. The advertisement dated 14/8/2018 was published for recruitment/ filling up the post of Police Patil of village Dusana, Taluka Sakri, District Dhule. In response thereto, both, the petitioner and the original applicant preferred

applications. Others had also been in the fray. First the written examination was held. Thereafter the petitioner and the original applicant were interviewed. Both of them secured 79 marks out of 140. The petitioner being graduate, was given four marks. Admittedly, the original applicant did H.S.C. and no further education.

14. The marks secured by both, the petitioner and the original applicant is also given below in the tabular form:

Sr. No.	Name of candidate	Seat No.	Date of Birth	Certificate of HSC/ equivalent	Degree Certificate	Post graduate certificate	MS-CIT/ computer qualification	District Level/ Inter-University/ State/ National level Sports	NCC Certificate	NSS/ MCC Scout Guide certificate	Personality-Dialogue skill	Total marks obtained in interview	Marks obtained in written examination	Total marks obtained in written examination and interview
2	Raosaheb Jagannath Khairnar	6513026	1/6/1987	3	4	-	2	-	-	2	2	13	66	79
3	Yogesh Kashinath sonawane	6513165	5/2/1987	3	-	-	-	2	-	2	2	9	70	79

15. In the advertisement itself it was stated in clause No.21 that in case the successful candidates secure equal marks, a recourse to the Government Resolution dated 22/8/2014 would be made. The Government Resolution dated 22/8/2014 reads as follows :

“५. उमेदवारास समान गुण मिळाल्यास.

गुणवत्ता यादीमधील दोन किंवा त्यापेक्षा अधिक उमेदवार समान गुण धारण करित असतील, तर अशा उमेदवारांचा गुणवत्ता कर्म खालील निकषांवर क्रमवार लावला जाईल :-

१. पोलीस पाटलांचे वारस; त्यानंतर
२. अर्ज सादर करावयाच्या अंतिम दिनांकास उच्च शैक्षणिक अर्हता धारण करणारे उमेदवार; त्यानंतर
३. माजी सैनिक असलेले उमेदवार; त्यानंतर
४. वयाने ज्येष्ठ उमेदवार.”

16. The marks secured by both, the petitioner and the original applicant would indicate, the petitioner being a graduate, has been given four marks. None of the rules prescribe that after granting the marks on the ground of educational qualification, the very qualification could not again be weighed for giving benefit to the candidate who has been granted extra marks on account of the educational qualification itself. On the contrary, it was specifically stated in the advertisement itself that, in case successful candidates secure equal marks, preference would be given in terms of the Government Resolution dated 22/8/2014.

17. Taking recourse to the second clause in the said

Government Resolution, the petitioner, in our view, has rightly been given an advantage over and above the original applicant. The MAT on its own ought not to have raised the said issue and called upon the parties to address the same more so, when the original applicant had not challenged the vires of the said Government Resolution and the clause in the advertisement. Furthermore, after accepting the terms of recruitment process and participated therein pursuant thereto, the original applicant should not be allowed to turn around. He thus stands estopped from raising any challenge to the conditions of the recruitment process. In view of the same, we are not in agreement with the findings recorded by the MAT holding the petitioner to have been granted double benefit.

18. The second ground as regards the petitioner to have supplied misleading information is concerned, the recruitment authority is with the petitioner. The same indicates the authority concerned to have condoned the alleged lapse. We, therefore, do not propose to dwell at length as to whether it was the mistake or mischief. It is true that, in the application the applicant claimed to have been an heir of Police Patil when

in fact he is not. It is also true that, in view of the verification clause below the application, the petitioner claimed all the information given therein was true and if turned out to be false, he submitted himself to be liable for the said lapse. At the cost of repetition, it is observed that, the lapse has been condoned by the employer as the State supports the cause of the petitioner herein.

19. So far as regards false certificate to have been relied on by the original applicant for securing the post of Police Patil is concerned, the facts are startling and necessarily require a deeper probe, as has been observed hereinabove. The matter dates back to 2019. We wish to give quietus to the said issue. We do not make any observation as regards whether the certificate was forged or genuine one.

20. The Writ Petition No.12550/2019, asking for the relief of making enquiry into the matter, therefore, stands disposed of.

21. For all the reasons stated hereinabove, the Writ Petition No.8474/2019 is allowed. The order dated 8/7/2019,

passed by the Maharashtra Administrative Tribunal in Original Application No.867/2018 is hereby set aside. Rule made absolute in above terms. Consequently, Civil Application No.3958/2024 stands disposed of.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

fmp/-