



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3109 OF 2024

(Smt. Ishwari W/o Surendra Gaure & Anr.

Vs.

Maharashtra State, Thr. its Secretary Department of Home Affairs,
Mantralaya, Mumbai & Ors.)

Office Notes, Office Memoranda
of Coram, Appearances, Court's
orders or directions and
Registrar's orders

Court's or Judge's orders

Mr. S.S. Taram, Advocate for the Petitioners.
Mr. P.P. Pendke, AGP for the Respondent Nos. 1 & 2/State.

CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATED : 13th MARCH, 2025

1. Heard.
2. The Petition questions the judgment dated 18.03.2024 passed by the learned Maharashtra Administrative Tribunal, Nagpur in Original Application Nos. 613/2023 and 614/2023, by which the challenge to the rejection dated 12.06.2023 of the Petitioners for appointment as a Police Patil, has been turned down.
3. Mr. Taram, learned counsel for the Petitioners, by relying upon *Dnyaneshwar Bhikan Solunke Vs. The Divisional Commissioner, Aurangabad Division Aurangabad & Ors., Civil Appeal No.2712/2019, decided on 11.03.2019* submits, that the rejection on the ground, that the Petitioners who are the

members of Gram Panchayat should have resigned on the date of application of Police Patil is incorrect, as that is not in consonance with Clause 2 of the Notification dated 10.05.1983, which covers the field. He therefore submits, that the impugned judgment is required to be quashed and set aside and the order dated 12.06.2023 rejecting the claim of the Petitioners for being appointed as Police Patil be also set aside.

4. Mr. Pendke, learned AGP for the Respondent Nos. 1 and 2/State, submits that in terms of the advertisement, the Petitioners were required to submit their resignation before publication of the select list and also an undertaking on a stamp paper of Rs.100/-, which having not been done, the rejection is proper.

5. In pursuance to the advertisement dated 17.04.2023 inviting applications to fill the post of Police Patil in Tumsar and Mohadi Taluqas of Bhandara District, the Petitioners had passed the written exam on 06.05.2023 and were interviewed on 08-09.05.2023, in pursuance to which, their names were included in the select list published on 10.05.2023. On complaint made against the inclusion of their names, by the Respondent Nos.3 and 4 on 12.05.2023 and by the Respondent No.5 on 15.05.2023, their names were not considered further for appointment on the ground that the Petitioners were the members of the Gram Panchayat on the date of the application and had not submitted the undertaking on a stamp paper of Rs.100/-.

6. A perusal of Clause 2 of the Notification dated 10.05.1983, it indicates, that a candidate for a post of Police Patil should not be a member or be otherwise associated with any political party or member of a local body, such person however may be considered for such post but he could be appointed as a Police Patil only on his actual resignation from that body being effective.

7. This would categorically indicate, that the resignation of the candidate for the post of Police Patil, on the date of the application for the said post is not necessary, neither it is necessary, that he should have resigned from such local body on the date of publication of the select list. All that is required is that the appointment of the Police Patil is to be made effective from the date on which he resigns from such local body. It is also necessary to note, that the rules do not provide any undertaking being given by the candidate who applies for the post of Police Patil while applying for the post or otherwise, on account of which, such a requirement inserted in the advertisement would be contrary to the requirement as spelt out in Government Resolution dated 10.05.1983.

8. Smt. Vaishali w/o Ashok Kathar Vs. The Divisional Commissioner, Aurangabad Division, Aurangabad & Ors., relied upon by the learned Maharashtra Administrative Tribunal, Aurangabad has since been set aside by the Hon'ble Apex Court in *Dnyaneshwar Bhikan Solunke* (supra), we therefore find, that the learned Maharashtra Administrative Tribunal, has not considered the language of paragraph 2 of

the Government Resolution dated 10.05.1983 in the correct perspective, on account of which, the same is hereby quashed and set aside.

9. For the same reason, the impugned communication dated 12.06.2023, is hereby quashed and set aside and the Respondent No.2 is hereby directed to appoint the Petitioners as Police Patil of the respective Villages, for which they have been selected, if there is no other impediment in law. The same shall be done within a period of two weeks from today.

10. The Petition is accordingly **allowed** in the above terms.

11. Pending application/s, if any, shall stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)