



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.942 OF 2025

Nabikhan Rahimkhan Pathan

VERSUS

The State Of Maharashtra Through District Collector, Nanded
And Others

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Advocate for Petitioner : Mr. V.B. Dhage

AGP for Respondents: Mr. S.D. Ghayal

Advocate for Respondent 3 : Mr. G.I. Bagal & D.K. Dagadkhair

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AND

WRIT PETITION NO. 785 OF 2025

Surekha Vitthalrao Abhange

VERSUS

The State Of Maharashtra Through District Collector, Nanded
And Others

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Advocate for Petitioner : Mr. V.B. Dhage

AGP for Respondents: Mr. S.D. Ghayal

Advocate for Respondent 3 : Mr. V.B. Kulkarni h/f Mr. A.S.
Usmanpurkar

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AND

WRIT PETITION NO.792 OF 2025

Nagesh Gangadhar Godbole

VERSUS

The State Of Maharashtra Through District Collector, Nanded
And Others

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Advocate for Petitioner : Mr. V. B. Dhage

AGP for Respondents: Mr. S.D. Ghayal

Advocate for Respondents : Mr. D.K. Dagadkhair & G.I. Bagal

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : May 05, 2026

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FINAL ORDER :-

1. Present writ petitions takes exception to the orders dated 28.6.2024 in Writ Petition No.942 of 2025, 25.6.2024 in Writ Petition No.785 of 2025 and the order impugned Writ Petition No.792 of 2025 respectively passed by the Sub-Divisional Officer, Kandhar, District Nanded, whereby the petitioner/s selection to the post of Police Patil has been cancelled on the ground that petitioners suffered disqualification since they have three living children as on the date of advertisement.

2. Facts giving rise to the present writ petitions, are as under :-

On 1.1.2024 respondents published an advertisement for recruitment of Police Patil at various villages. Petitioners responded to said advertisement. They undergone selection process. The Sub-Divisional Officer, Kandhar declared list of selected candidates. Names of petitioners figured in the list of successful candidates.

3. At this stage, respondent no.3 in respective writ petitions raised objection to the selection of petitioner/s contending that

petitioner/s has three issues. As such, they incurred disqualification in terms of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 (for short hereinafter called as 'Rules of 2005'), respondents sustained objection and cancelled petitioner/s selection.

4. Mr. Dhage, learned advocate appearing for petitioners submits that appointment of Police Patil is governed by Police Patil Order, 1968, which do not prescribe disqualification for appointment, because candidate is having more than two children. The provisions contained in Rules of 2005 were not made applicable to appointment of Police Patil till 16.8.2024. By way of notification dated 16.8.2024 sub-clause (f) was introduced into clause no.3 of the Police Patil Order, 1968. The advertisement against which petitioner/s undergone selection process was issued in the Month of January, 2024. Respondents have retrospectively applied amendment introduced in August, 2024 to case of petitioners. He would therefore urge to quash and set aside impugned orders and restore selection of petitioners.

5. Per contra, Mr. Ghayal, learned A.G.P appearing for respondents supports the impugned orders. He submits that

there is hardly dispute that petitioner/s had three children as on the date of advertisement. Clause no.16 of Advertisement stipulates that Rules of 2005 would apply and on the date of advertisement, candidate shall not have more than two children. Clause no.16 prescribes for filing of the affidavit regarding small family. Petitioners participated in the selection process on the basis of advertisement, which specifically stipulates disqualification in case the candidate has more than three children as on qualifying date. He would further submit that, in similar set of circumstances, Division Bench of this Court uphold the orders of cancellation of selection.

6. Having considered submissions advanced by learned advocates appearing for respective parties, this Court finds that there is hardly dispute as regards to the factual matrix. Undisputedly, petitioners responded to the advertisement dated 1.1.2024 issued by respondent inviting applications for recruitment on the post of Police Patil. Clause no.16 of advertisement stipulates applicability of Rules of 2005 regarding small family. Advertisement requires filing of the affidavit regarding eligibility under the rules. It is true that in case of **Ajit Prakar Vaij Vs. Sub Divisional Officer, Savantwadi**

in **Writ Petition No.8468 of 2024 decided on 18.12.2024** with companion petitions, Single Judge of this Court observed that in absence of disqualification or eligibility in Maharashtra Village Police Act, 1967 alongwith Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Service) order, 1968 regarding small family, the candidate cannot be declared as disqualified on the basis of subsequent notification dated 16.8.2024, whereby additional condition was introduced in clause no.3 of 1968 of the Police Patils Order, 1968, providing that at the time of appointment of Police Patil or for the renewal of appointment, the compliance will be required of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005. However, the Division Bench of this Court in Writ Petition no.10108 of 2024 alongwith Review Application no.57 of 2025 decided on 12.6.2025 observed that, although amendment in Police Patil's Order of 1968 was introduced on 16.8.2024 i.e. after advertises to the post of 'Police Patil', the advertisement, to which, the petitioner/s had responded and applied clearly specified that affidavit of small family was one of the eligibility condition in recruitment process. Petitioner/s never challenged terms and conditions of the advertisement. The petitioners had responded to said

Advertisement and participated in selection process knowing well the condition in advertisement. In this backdrop, now, petitioners cannot contend that they cannot be held ineligible in absence of the provisions in the order of 1968.

7. Aforesaid order of this Court was assailed before the Hon'ble Supreme Court in SLP No.25599 of 2025. Initially, notice was issued on consideration of submissions that extant rules applicable were not applicable to the advertisement in question. However, after hearing parties, Hon'ble Supreme Court rejected the SLP and confirmed the order passed by the Division Bench of this Court. This Court holds that, in wake of the view taken by the Division Bench of this Court, which is affirmed by Hon'ble Supreme Court, petitioners' contention does not hold water.

8. In result, Writ Petitions sans merit, hence **dismissed**.

(S. G. CHAPALGAONKAR)
Judge

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