**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 21060 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Approved for Reporting	Yes	No
	Yes	

BHARATBHAI KHUMSINGHBHAI SANGOD**Versus****STATE OF GUJARAT & ORS.**

Appearance:

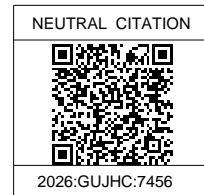
MS KARISHMA CHAUHAN FOR MR SHIVAM H CHOKSHI(9120) for the Petitioner(s) No. 1

MS KINJAL VYAS ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3,4

CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 29/01/2026****ORAL JUDGMENT**

1. Heard learned advocate Ms. Karishma Chauhan, for learned advocate Mr. Shivam Chokshi appearing for the petitioner, and learned AGP Ms. Kinjal Vyas appearing for the respondent-State.



2. By way of this petition, the petitioner has prayed for the following relief:

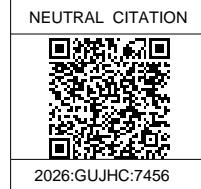
"(A) YOUR LORDSHIPS may be pleased to issue an appropriate writ, order or direction, directing the respondents authorities to issue the recruitment order in favor of the petitioner and further by quashing setaside the impugned order dated. 12.10.2023 passed by the respondent no. 3 in the interest of justice mark as (Annex-A);

(B) Pending hearing and final disposal of this petition, YOUR LORDSHIPS may be pleased to direct the respondents to recruit the petitioner on immediate basis as deemed fit by this Hon'ble Court, in the interest of justice.

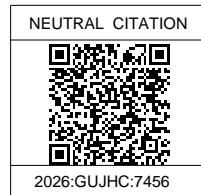
(C). YOUR LORDSHIPS may be pleased to grant such other and further relief's as deemed fit in the interest of Justice."

3. With the consent of the learned advocates appearing for the respective parties, the matter was taken up for final hearing. Hence, **RULE.** Learned AGP Ms. Kinjal Vyas waives service of rule on behalf of the respondent-State.

4. The facts giving rise to the petition, as summarized by learned advocate Ms. Chauhan, are stated as under:



4.1 The present petitioner applied for the post of Unarmed Police Constable (Lokrakshak) and SRPF Constable pursuant to an advertisement published by the Lokrakshak Bharati Board in the year 2021. As per the application form filled up by the petitioner, no details were sought regarding any pending criminal case against the petitioner. In view of the above, the petitioner filled up the form online and provided all the necessary details as required. Ultimately, after completing the recruitment process, the petitioner found his name in the select list and was awaiting appointment. However, vide impugned order dated 12.10.2023, the respondents communicated to the petitioner that, in view of the registration of an offence being C.R. No. I-66 of 2018 with Dhanpur Police Station under Sections 143, 147, 148, 149, 452, 323, 427, 504, and 506(2) of the Indian Penal Code, and despite the proceedings of the said criminal case having been quashed by a Co-ordinate Bench of this Court, on the basis of guidance sought by the respondents and given by the office of the D.G.P., it was decided that the petitioner should not

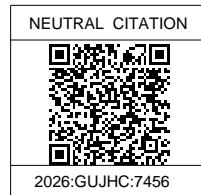


be permitted to join the post of Unarmed Lokrakshak.

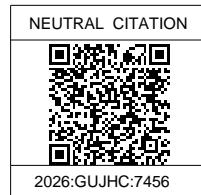
It is this order which is under challenge by way of the present petition.

5. Learned advocate Ms. Chauhan submitted that for appointment to the post of Unarmed Lokrakshak/SRPF Constable, a candidate is required to fill up an online application form, a copy of which is annexed to the petition at page No. 31, which indicates that the said application form does not contain any column requiring disclosure of any pending criminal case before any police station or competent court of law. In absence of any such column, though a criminal case was registered against the present petitioner in the year 2018, the petitioner was unable to disclose the same due to the specific format of the online application form, which does not provide for incorporating any details other than those asked for, and therefore, the petitioner could not disclose the fact regarding the pendency of the criminal case.

5.1 Learned advocate Ms. Chauhan submitted that

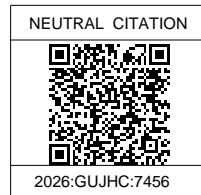


the petitioner's case for appointment was not rejected on the ground of any suppression or non-disclosure of details regarding the pendency of a criminal case. She submitted that the nature of the offence was petty in nature, and the only allegation was that the petitioner, along with other co-accused persons, had given kick and fist blows to the complainant and abused the complainant's mother-in-law. The present petitioner was arraigned as Accused No.2 in the said FIR, and ultimately, the proceedings pursuant to the said FIR were quashed by way of a consent quashing petition preferred by the petitioner, wherein the complainant had remained present, as observed by the Co-ordinate Bench in paragraph No. 5, and all proceedings pursuant to the FIR were quashed with her express consent. The said order was passed much prior to the order not permitting the petitioner to join, as the Co-ordinate Bench of this Court passed the order in Criminal Misc. Application No. 21786 of 2021 on 15.06.2023, whereas the impugned order was passed on 12.10.2023. Hence, on the date on which the impugned order was



passed, there was no offence pending against the present petitioner.

5.2 Learned advocate Ms. Chauhan further submitted that merely because of pendency of a criminal case or registration of a criminal case against a person, such person would not disqualify from being appointed to a government job in view of the advertisement published by the authority. She submitted that if such a practice is allowed to continue, it may result in an unhealthy trend of registering false offences against meritorious or successful candidates, who may be harassed by persons having vested interests, and who, by filing false complaints, may attempt to ensure that such candidates are deprived of appointment on account of the pendency of criminal cases, despite being meritorious, thereby serving the ill will of concerned persons having vested interests. Learned advocate Ms. Chauhan submitted that the case of a person against whom a criminal case is pending should not be straightaway considered for denial of



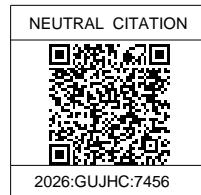
appointment, but that the authority was expected to consider the petitioner's case on the basis of the gravity of the offence and the overall circumstances in which the alleged offence was committed. Learned advocate Ms. Chauhan submitted that in the instant case, the only allegation against the present petitioner is that he gave kick and fist blows to the complainant and abused the complainant's mother-in-law.

5.3 Considering the above allegations, learned advocate Ms. Chauhan submitted that even though the FIR and subsequent proceedings were quashed by way of a consent quashing application, having regard to the nature of the allegations and the gravity of the offence, which were not of a serious nature, the authority was not justified in denying appointment to the petitioner.

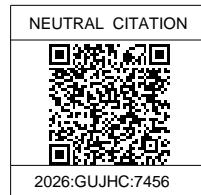
5.4 Learned advocate Ms. Chauhan relied upon a decision of this Court in the case of *Rameshbhai Danabhai Khetariya v. State of Gujarat, Special Civil Application No. 947 of 2022, dated 12.03.2025,*



wherein though this Court considered the aspect of suppression in disclosing facts regarding the pendency of a criminal case, it made observations in paragraphs 22 and 23 to the effect that while exercising discretion in granting or denying appointment, the authority is required to consider various aspects, including the nature of the offence, its gravity, and the extent of the petitioner's alleged involvement. Accordingly, learned advocate Ms. Chauhan submitted that in the present case, as the allegations were limited to giving kick and fist blows and abusing the complainant's mother-in-law, and as the same did not result in any conviction and were amicably settled between the parties with the FIR and all consequential proceedings having been quashed, merely because an offence was registered against the petitioner cannot be a ground to deny him appointment. She therefore prayed for quashing and setting aside the order dated 12.10.2023 and for a further direction to the respondents to appoint the petitioner by holding him to be qualified for appointment.



6. Learned Assistant Government Pleader Ms. Kinjal Vyas, appearing for the respondent-State, vehemently opposed the petition and submitted that the petitioner was not denied appointment on the ground of non-disclosure of certain facts regarding a pending offence. She submitted that the petitioner was seeking appointment as an Unarmed Constable (Lokrakshak) in the police force, which is expected to maintain the highest standards of discipline, honesty, and integrity, and therefore, with a view to ensuring that no person having even the slightest antecedents or any past criminal record becomes a part of the police force, the respondent authorities take ample care to ensure that only persons having an absolutely clean track record are appointed. She further submitted that such care was taken in the present case, and when it was found that an offence of a serious nature involving sections relating to rioting and bodily injury had been registered against the petitioner, and in furtherance of the objective of appointing only persons with clean records, the petitioner was denied appointment after seeking



guidance from the highest level, i.e., the office of the D.G.P., and thereafter the order dated 12.10.2023 was passed.

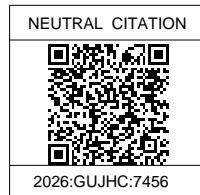
6.1 Learned Assistant Government Pleader Ms. Kinjal Vyas also relied upon the same decision in the case of Rameshbhai Danabhai Khetariya (Supra) and, by pointing out the observations made by this Court in paragraph No. 22, submitted that considering the fact that we are living in a fast-paced era and in the age of high-tech devices, it may not always be possible for the authority to obtain the past record of each candidate applying for a post. However, as a matter of fact, whenever the Recruiting Body comes across the registration of an offence against a candidate, and in order to ensure that only persons with a clean track record are appointed to the police force, the impugned order was passed. She therefore submitted that the impugned order is absolutely just, proper, and legal, and this Court may not interfere with the same.

6.2 Learned Assistant Government Pleader Ms.



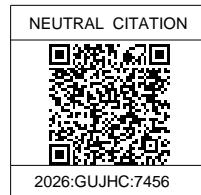
Kinjal Vyas further submitted that, though the petitioner was selected, such selection would not confer any right of being appointed, as, in view of the procedure prescribed for appointment, after selection, the petitioner's character is required to be verified, and thereafter, subject to clearing the medical examination, a candidate can be appointed. In the instant case, during the character verification process, it came to the knowledge of the respondents that a criminal case had been registered against the petitioner, and therefore, even though the same has now been quashed, in view of the reasons stated hereinabove in the foregoing paragraphs, the respondents decided not to appoint the petitioner on the post in question. She, therefore, prayed for dismissal of the petition.

7. I have heard the learned advocates for the parties and perused the record. The short question that has arisen for consideration of the Court is whether a person against whom a criminal case is pending, or even if the case is decided in favor of the petitioner by way of acquittal or quashing,



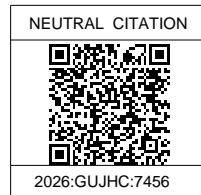
whether the department was justified in denying appointment to the petitioner. Considering the above aspect, I have perused the record and found that it is true that a criminal case was registered against the petitioner in the year 2018, which is much prior to the date on which the petitioner filled up the form in 2021. However, as stated in the foregoing paragraph, the form was to be filled up online, and there was no scope for the petitioner to incorporate any additional details that would have enabled him to disclose the fact that a criminal case was pending against him. Be that as it may, the case of the petitioner was not rejected, nor was the petitioner denied appointment on the ground of any suppression or non-disclosure of a criminal case, and therefore, the aforesaid aspect is not of much relevance in the present matter.

7.1 What is important is whether, even after an FIR and all consequential proceedings arising out of the FIR are quashed by a competent Court, the shadow of that FIR would still continue to follow the petitioner. In the instant case, the offence alleged

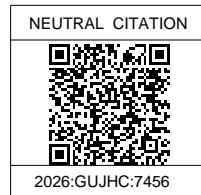


against the petitioner was limited to giving kick and fist blows and abusing the complainant's mother-in-law. The FIR is produced at Annexure-B of the petition, and upon perusal, the Court found that, except for the above allegations, there were no other allegations against the petitioner. Though the charge-sheet is not part of the petition, on perusal of the order of consent quashing dated 15.06.2023 passed in Criminal Misc. Application No. 21786 of 2021, the Court found that from the time the application for consent quashing was preferred in 2021 until it was decided on 15.06.2023, no other sections of the Indian Penal Code or any other law in force were added subsequently. Therefore, the Court has reason to believe that even if a charge-sheet had been filed, no other sections relating to any other offence were added. The Court has therefore considered the fact that when the allegations are limited only to giving kick and fist blows or abusing a person, whether such allegations would disqualify a person from obtaining a job.

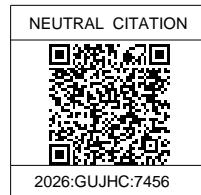
7.2 If mere pendency of a criminal case or



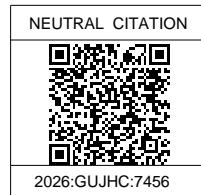
registration of an offence, even if subsequently quashed, is considered an impediment for appointing a person who is otherwise found meritorious and whose name appears in the select list, it would become very easy for persons having vested interests or grudges against such a meritorious candidate to file false FIRs, which may ultimately result in denying him the appointment. Day in and day out, we come across cases where false FIRs are registered on account of matrimonial disputes, on account of financial transaction between two or more private parties, on account of alleged accidents, or on account of some civil disputes pending between two or more private persons. In the present case, the allegations are limited to giving kick and fist blows and abusing the complainant's mother-in-law, which has not resulted in hospitalization or even treatment at an OPD of any hospital or dispensary, as can be seen from the FIR, indicating that the nature of the offence is not serious. If mere registration of an offence or pendency of a criminal case is treated as a benchmark for denying



appointment, it may cause great injustice to a meritorious candidate who ultimately may succeed in obtaining an Hon'ble acquittal or, by way of quashing of the FIR, is relieved of criminal proceedings. By that time, however, the damage caused by a person with vested interest may already have been done. In the instant case, though it is not alleged that the complainant has any grudge against the petitioner, the fact remains that the authority was required to consider the overall circumstances that led to the registration of the offence and the subsequent quashing of the FIR and all consequential proceedings. It is true that this Court in *Rameshbhai Danabhai Khetariya v. State of Gujarat, Special Civil Application No. 947 of 2022, dated 12.03.2025*, in paragraphs 21 and 22, observed that non-disclosure or suppression of facts about the registration of an offence would amount to dishonesty and indicate doubtful integrity, and therefore, such persons must not be given appointment. At the same time, in paragraph 22 of the said decision, this Court has observed as under:

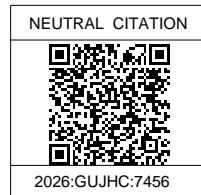


"22. I have reasons to say so as today we are living in a high tech world and therefore, when an organization or recruiting body asked for a specific details from the candidate about any past offences registered against him or about any pending criminal cases, unless the candidate on his own provides the details, it would be very difficult for the recruiting body or organization to dig out the past of the candidate and to verify his credentials. The certificate issued by a local police authority may give an idea about the cases registered or pending against the person who are within the jurisdiction or database collected by the concerned police authority but at the same time, suppose if a person, opt for a job in a particular District or State but has committed an offence or if the same is registered or pending with some other State in that case, despite the candidate having a criminal history or pending case, the same would never come to surface on the basis of certificate issued by the concerned police authority having limited jurisdiction and resources to examine and verify the same and therefore, it becomes the mandatory moral duty of the candidate to disclose about every single offence or pending case registered or instituted against him at the time of filling up the form to give a clear picture about his credibility to the recruiting body or the organization and thereafter, it is a matter of discretion or subject to any rules framed by the authority to consider candidature of the petitioner and to proceed further to give appointment to the candidate depending upon nature of offence, its gravity and depending upon the extent of candidate allegedly involved in the offence."

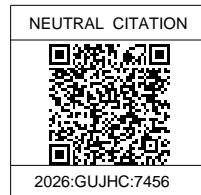


7.3 In the instant case, there is no allegation of any suppression on the part of the petitioner, and, considering the observations made by this Court in Rameshbhai Danabhai Khetariya (Supra), the Court has taken into account the situation whereby the authority can always consider the gravity of the offence, the role of the candidate in the alleged offence, and the nature of the offence. If the authority finds that a selected candidate otherwise deserves appointment, he may not be denied the same solely on account of the pendency of a criminal case or registration of a criminal offence in the past. The authority was expected to consider the overall nature of the offence, the role of the petitioner, and the gravity of the offence before denying appointment to him.

7.4 In view of the above discussion, the Court is of the view that mere pendency of a criminal case would, *per se*, not disqualify any candidate from being appointed. Whether to appoint a person against

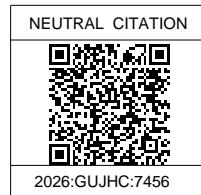


whom a criminal case is pending, or who has been acquitted, or against whom FIR has been quashed not on merits but by consent of the complainant, is a matter of discretion of the employer. In cases of Hon'ble clean acquittal, considering the evidence on record, and in cases of quashing of the FIR by the competent Court, unless something really objectionable is found against the petitioner, the appointing authority/employer ordinarily should not deny appointment to a candidate merely on account of registration of a criminal case. Any suppression by the candidate, acquittal on the basis of benefit of doubt, or quashing of the FIR with the consent of the complainant would stand on a different footing. In such cases, the respondent/appointing authorities are required to consider the case of the candidate by taking into consideration all aspects relating to the offence alleged. Such aspects include the gravity of the offence, the role of the petitioner, and the nature of the offence. The authority is required to consider the case of the petitioner independently and objectively on a case-to-case basis, depending upon



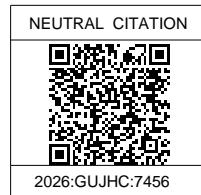
the post for which the candidate has applied. If the candidate is found unsuitable for appointment to a particular post, having regard to the profile attached to it, the authorities are required to pass a reasoned order explaining why, despite quashing of the FIR by consent of the complainant or despite acquittal, the appointment is being denied.

7.5 Further, the nature of the offence alleged against the candidate is also an important factor to be considered. Even if a person is acquitted in a criminal trial in respect of a heinous crime, the nature of the offence alleged may render him unsuitable for the post for which he has applied. For instance, if a male candidate charged under the POCSO Act is denied appointment in a primary school having children of tender age, despite his acquittal, the authority may, in larger public interest, deny such appointment. Similarly, in cases involving heinous crimes, where the acquittal is based on key witnesses having turned hostile, such acquittal may not, as a matter of right, be treated as a ground to seek appointment. Therefore, it is a matter of discretion



for the appointing authority to deny appointment to a candidate against whom a criminal case is pending, or even after acquittal, or where the FIR has been quashed with the consent of the complainant. Such discretion is required to be exercised by considering the factors mentioned hereinabove.

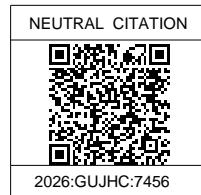
7.6 The consideration must be objective, on a case-to-case basis, and after taking into account the job profile attached to the post, with an open mind. However, when the FIR against a candidate is quashed by the competent Court on merits, such candidates stand on a different footing for consideration of appointment. In such cases, the competent Court, either in exercise of powers under Section 482 of the Criminal Procedure Code or under Section 528 of the Bharatiya Nagarik Suraksha Sanhita read with Article 226 of the Constitution of India, has quashed the FIR after considering the merits of the case and arriving at the conclusion that no offence is made out against the accused. Therefore, in such cases, such discretion may not ordinarily be required to be exercised, and such candidates may not be denied



appointment despite quashing of the FIR on merits, unless exceptional circumstances are specifically pointed out in the order denying appointment.

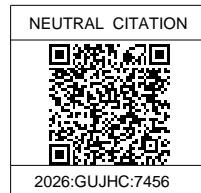
7.7 In the instant case, the authority, while passing the order dated 12.10.2023, was aware of the fact that an order dated 15.06.2023 had been passed by the Co-ordinate Bench of this Court in Criminal Misc. Application No. 21786 of 2021, whereby the FIR against the petitioner was quashed. Therefore, the authority could have considered the petitioner's case for appointment, as, on the date the impugned order was passed, there was nothing pending against him, and the FIR and all consequential proceedings had already been quashed.

7.8 Still, considering the fact that the petitioner has sought appointment in the police force, the Court observes that in cases where acquittal is based on the benefit of doubt, or where witnesses have turned hostile, the authorities may be justified in denying appointment, having regard to the gravity of the offence. Such acquittals may



relieve a person from punishment, but the nature or gravity of the offence may render the person unsuitable for a disciplined force like the police, and in such cases, it would be a matter of discretion for the appointing authority to decide whether to appoint the person. However, in cases where a person is accused of committing an accident on account of alleged rash driving that did not result in hospitalization, petty matrimonial disputes, or minor offences such as giving kick and fist blows, which do not affect the functioning or discipline of the police force and may have arisen out of ill will, grudge, or vested interests, the authorities are required to consider such cases positively for the purpose of appointing a selected candidate who is otherwise found meritorious and has no adverse record regarding character or integrity.

7.9 Considering the above, in the instant case, as the FIR and all consequential proceedings qua the present petitioner have already been quashed, and having regard to the nature of the offence and the role attributed to the petitioner, namely giving



kick and fist blows to the complainant and abusing her mother-in-law, the respondents committed an error in denying appointment to the petitioner. Therefore, the impugned order dated 12.10.2023 is required to be quashed and set aside. Accordingly, the same is quashed and set aside. The respondents are directed to consider the case of the present petitioner in light of the observations made hereinabove for appointment to the post of Unarmed Constable (Lokrakshak), and he may be appointed if the petitioner is otherwise found suitable for the post and clears the medical examination.

8. With the aforesaid observations, the petition is allowed. Rule is made absolute. No order as to costs.

(NIRZAR S. DESAI, J)

Pallavi