



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

WRIT PETITION NO. 6685 OF 2019

Anusaya widow of Anil Bhosale,
Age : 36 years, Occu. : Household
R/o. : Indrala, Tal. : Devani,
Dist. : Latur

.. Petitioner

Versus

1. The State Of Maharashtra,
Through its Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai.
2. The Education Officer (Primary),
Zilla Parishad, Latur.
3. Maratha Shikshan Prasarak
Mandal, Udgir, Tal. : Udgir,
Dist. : Latur,
Through its Secretary.
4. Vishwanathrao Chalwa Primary
School, Udgir, Tal. : Udgir,
Dist. : Latur,
Through its Headmaster.

.. Respondents

Mr. V. D. Gunale, Advocate for Petitioner.
Mr. B. B. Bhise, AGP for Respondent No. 1.
Mr. U. B. Bondar, Advocate for Respondent No. 2.
Mr. G. D. Kale, Advocate for Respondent Nos. 3 & 4.

**CORAM : KISHORE C. SANT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 28th NOVEMBER 2025.

JUDGMENT (*PER ABASAHEB D. SHINDE, J.*) :-

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, the writ petition is heard finally at the stage of admission.
3. By this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for issuance of directions to the respondent No. 2, the Education Officer (Primary), Zilla Parishad, Latur to grant approval to her appointment on compassionate ground to the post of peon pursuant to the proposal submitted by the respondent No. 3 – management and respondent No. 4 – school with further prayer of seeking consequential benefits thereon.
4. The facts which are undisputed can be summarized as follows :
5. The husband of the petitioner namely Anil Mallikarjun Bhosale was working on Class - IV post i.e. peon in respondent No. 4 – school. He was a permanent employee and his service was duly approved by the respondent No. 2. Unfortunately, said Anil

died in harness on 16.10.2016. The petitioner who is having qualification of H.S.C. made an application to the respondent Nos. 3 and 4 on 25.07.2017 requesting them to appoint the petitioner on compassionate ground. The respondent No. 3 accordingly considered the said application and after finding that the petitioner is duly qualified for being appointed to the post of peon, issued an appointment order in favour of the petitioner on 28.07.2017.

6. The respondent Nos. 3 and 4 accordingly submitted the proposal along with all the requisite documents seeking approval to the appointment of the petitioner on compassionate ground on 13.10.2017 to the respondent No. 2.

7. Though the proposal seeking approval to the appointment of petitioner on compassionate ground has been submitted to the respondent No. 2 on 13.10.2017 and since decision on the said proposal has not been taken, therefore, the petitioner is before this Court.

8. The Education Officer (Primary) Zilla Parishad, Latur has filed an affidavit in reply thereby stating that, though the proposal

seeking approval to the appointment of the petitioner on compassionate ground has been received by the office of respondent No. 2 on 13.10.2017, however, by virtue of ban imposed vide Government Resolution dated 12.02.2015, the respondent No. 2 is not in a position to grant approval to the appointment of the petitioner.

9. We have heard learned counsel for the petitioner, learned A.G.P. and learned counsel for the respondent No. 2 – Education Officer.

10. Learned counsel for the petitioner submits that, admittedly, husband of the petitioner died in harness on 16.10.2016 while he was working as a class -IV employee i.e. peon and the petitioner after being found eligible has been appointed by the respondent Nos. 3 and 4 to the post of peon on compassionate ground. The respondent No. 2 – Education Officer has not taken decision though the proposal seeking approval to the appointment of petitioner has been submitted by respondent Nos. 3 and 4 on 13.10.2017. Learned counsel for the petitioner also submits that, there is no justifiable reason for not granting approval to the

appointment of petitioner and therefore, urged that the writ petition be allowed and respondent No. 2 – Education Officer be directed to grant approval to the appointment of petitioner on compassionate ground and to pay the consequential benefits accordingly.

11. Per contra, the learned counsel appearing for respondent No. 2, Education Officer (Primary), Zilla Parishad, Latur by relying on the affidavit in reply filed by the respondent No. 2 – Education Officer submits that, the respondent No. 2 cannot grant approval to the appointment of petitioner by virtue of Government Resolution dated 12.02.2015. Learned counsel for the respondent No. 2 would submit that, the said Government Resolution dated 12.02.2015 contemplates ban on recruitment of new post by the private management as well as grant of approval to such appointments and would warrant criminal action against the private management as well as the Education Officer for non-compliance of the said Government Resolution. For better appreciation, the relevant portion of the Government Resolution dated 12.02.2015 is reproduced which reads thus :

“शासन निर्णय :

दिनांक 23 ऑक्टोबर, 2013 च्या शासन निर्णयान्वये राज्यातील मान्यताप्राप्त खाजगी / अंशतः अनुदानित माध्यमिक व उच्च माध्यमिक व सैनिकी शाळांसाठी सुधारित आकृतीबंधाच्या शासन निर्णयाबाबत खालीलप्रमाणे गठीत करण्यात आलेल्या समितीचा अहवाल पुढील आदेश होईपर्यंत जैसे थे परिस्थिती ठेवण्यात यावी, असे शासनाचे आदेश आहेत. दरम्यानच्या कालावधीत संबंधित शाळेच्या नवीन / रिक्त पदांवर कोणत्याही परिस्थितीत भरती करता येणार नाही.

2. याबाबत शासनाचे पुढील आदेश होईपर्यंत शाळांतील नवीन / रिक्त पदांवर भरती केल्याचे निदर्शनास आल्यास संबंधित खाजगी शाळांच्या व्यवस्थापन व संबंधित शिक्षणाधिकारी यांचेवर शिस्तभंग विषयक कारवाई तसेच फौजदारी खटला दाखल करण्याची कारवाई करण्यात येईल याची नोंद घ्यावी.”

12. From bare perusal of the Government Resolution dated 12.02.2015 it can be seen that, the said Government Resolution cannot be made applicable in so far as the appointment of the petitioner is concerned, as the same has been made on compassionate ground. At the most, the said Government Resolution could be made applicable for filling up new post or vacant post and certainly not in respect of compassionate appointment for the reason that, the object of scheme of compassionate appointment is to mitigate the hardship of the family members of an employee, who died in harness, leaving his family in financial destitution. The object and purpose of such an employment and conferring a power to make an appointment on compassionate ground is to see that the employer assist the family

to tide over the financial crisis caused by the loss of bread winner. It is an assistance to family which is in distress. In short, such an appointment on compassionate ground therefore cannot be equated with a fresh appointment which will ordinarily require approval, but it is made in exigencies to accommodate family member of bread winner on his/her death.

13. This Court in the case of **Samita Sameer Desai Vs. State of Maharashtra through Secretary**, in Writ Petition No. 7507/2016 decided on 11.12.2018 has considered the object of scheme and has held in paragraph No. 9 which reads thus :

“9. It is common ground that the appointment is sought by petitioner No. 1 on compassionate ground. The very object and purpose of such employment and conferring a power to make appointment on compassionate ground is that the employer assists the family to tide over the financial crisis caused by the loss of bread winner. It is an assistance to the family and which is in distress. In the circumstances, this is not a fresh appointment or an appointment which ordinarily requires the approval. All that would suffice is an intimation from petitioner No. 2 that the husband of petitioner No. 1 was already appointed as a Peon and that post was permanent and duly sanctioned. Having appointed him, it was revealed that he died suddenly on 2nd November, 2011. In his place, in terms of Government policy, compassionate appointment was

sought and it is that appointment which has been made. There is no post created nor is there any question of an appointment being made through recruitment process which was covered by the ban. The ban, thus, could not have covered this appointment.”

14. We, therefore, find that, in view of the fact that appointment of the petitioner on compassionate ground cannot be termed as a fresh appointment, the Government Resolution dated 12.02.2015 will have no application, since the appointments on compassionate ground were kept out of the purview of the general ban imposed on recruitment. We are, therefore, of the view that the action of respondent No. 2 thereby refusing to grant approval to the appointment of the petitioner on the basis of Government Resolution dated 12.02.2015 is unsustainable and against the very object of the scheme of appointment made on compassionate ground. We, therefore, find that, the writ petition deserves to be allowed and hence, we pass the following order :

ORDER

- (i) The writ petition is allowed.
- (ii) The respondent No. 2, Education Officer (Primary), Zilla Parishad, Latur is hereby directed to grant approval to the

appointment of petitioner on compassionate ground as a peon pursuant to the proposal submitted by respondent Nos. 3 and 4 dated 13.10.2017 and shall pay all the consequential benefits accordingly.

(iii) We direct that the said exercise of granting approval to the appointment of the petitioner and consequential benefits to be paid be carried out within a period of eight (08) weeks from today.

(iv) Rule is thus made absolute in above terms. No order as to costs.

(ABASAHEB D. SHINDE, J.)

(KISHORE C. SANT, J.)

P.S.B.