



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2094 OF 2022

Janabai Rambhau Nikam (died)

Through LRs.

1. Rameshwar Kishor Pawar

Age: 40 Years, Occu: Service,

2. Balkrishna Kishor Pawar

Age: 36 years, Occu: Labour.

... PETITIONERS

VERSUS

1. The State of Maharashtra

Tribal Development Department

Mantralaya Mumbai-32.

Through its Principal Secretary.

2. The Scheduled Tribe Caste Certificate

Scrutiny Committee,

Aurangabad Division, Aurangabad

Through its Member Secretary.

3. The Commissioner

Commissionerate of Social Welfare

3 Church Path, Maharashtra State.

Pune. 411 001, Tq. & Dist. Pune.

4. The Assistant Commissioner,

Social Welfare Department of Social

Justice & Special Assistance, Dr. Babasaheb

Ambedkar Samajik Nyay Bhavan, Nagar Road,

Beed-431122, Tq. & Dist. Beed.

5. The Tahsildar Jalna

Tal. & Dist. Jalna.

... RESPONDENTS

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Mr. Sushant C. Yaramwar, Advocate for the Petitioners.

Mr. A. S. Shinde, AGP for Respondent Nos. 1 to 5.

**CORAM : KISHORE C. SANT &
AJIT B. KADETHANKAR, JJ.**

RESERVED ON : 6th AUGUST 2026.

PRONOUNCED ON : 6th OCTOBER 2026.

FINAL ORDER (*PER KISHORE C. SANT, J.*) :-

1. Heard Mr. Yeramwar, the learned Advocate for the petitioner and Mr. Shinde, the learned AGP for Respondent/State. By consent of the parties, the petition is taken up for final disposal at the stage of admission.
2. By way of this writ petition, the petitioner has challenged the order dated 06/01/2022 passed by respondent No. 3 putting the services of the petitioner - Janabai on supernumerary post for temporary period of 11 months or till the date of retirement whichever is earlier for non submission of tribe validity certificate. Subsequently, civil application came to be filed bearing No. 1463/2026 praying for substantive reliefs. Since the prayers were not part of the original petition, a leave was

sought to amend the petition and to incorporate the prayers in the petition. Leave was granted.

3. Now, the prayer added is to quash and set aside the impugned orders dated 28/10/2025 and 07/11/2025 passed by respondent No. 4 rejecting the application of the petitioner No. 2 for an appointment on compassionate ground.

4. The petitioners have challenged the orders dated 28/10/2025 and 07/11/2025 issued by Respondent No.4 thereby rejecting the applications of the petitioner No.2 as the original petitioner - Janabai failed to produce caste validity certificate duly issued by Scheduled Tribe Caste Scrutiny Committee and directed her to return original copy of the tribe certificate as belonging to Thakur (ST) Community.

5. The facts in short giving rise to the present petition are as below :

6. Petitioner's mother was appointed as a Cook on the post reserved for Scheduled Tribe by order dated 18/08/1996. On 21/11/2001, her proposal was forwarded to the Committee for verification of her tribe claim. Certificate was forwarded by Dr. Babasaheb Ambedkar Backward Girls Government Hostel to the Scrutiny Committee. The proposal

merely remained pending.

7. In 2013, again the proposal was directed to be submitted. On inquiry, it was found that the original certificate which was already referred to the Committee could not be traced in the office of the Assistant Commissioner, Social Welfare.

8. In 2013, the Warden of Dr. Babasaheb Ambedkar Backward Girls Government Hostel requested for original certificate to facilitate the deceased to again submit the certificate for verification. At that time, it was informed that the certificate submitted by her was not traceable. No duplicate certificate was also issued.

9. It is thus the case of the petitioner that for no fault on the part of deceased petitioner, her claim could not be decided and it is for that reason she could not submit her tribe claim before the committee. However, the State Government took a decision to place such persons on supernumerary post by taking decision dated 21/12/2019. Pending this writ petition, the petitioner died and now her legal heirs are brought on record.

10. It is the case that, after death of original petitioner, petitioner No.2

Balkrishna applied for getting appointment on a compassionate ground in place of original petitioner deceased Janabai who died on 29/01/2025. However, his application came to be rejected by order dated 28/10/2025 stating that the deceased was working on supernumerary posts. There is no policy of giving compassionate appointment to the heirs of the person working on temporary or supernumerary posts.

11. It is stated that the petitioner No.2 however is issued with a validity certificate by the Committee and therefore now petitioner No.2 is entitled to get compassionate appointment by treating Janabai as belonging to Scheduled Tribe Community. This Court thus finds that now there is no dispute that the petitioner No.2 belongs to scheduled tribe.

12. This Court thus finds that, when the deceased Janabai had submitted tribe certificate however, the said was misplaced and could not be traced. It could not be verified. Thereafter, she cannot be blamed for the same, nor her legal heirs can now be blamed. The fact is that the petitioner No.2 could prove his tribe status. Since now petitioner No. 2 is held to be belonging to Scheduled Tribe, there should be no difficulty in

accepting deceased Janabai as belonged to Scheduled Tribe category. Thus, now it will have to be held that deceased Janabai happens to be a person belonging to schedule tribe. However, the status cannot be verified since she is died.

13. This Court finds that the petitioners' mother was appointed on a post reserved for person belonging to Scheduled Tribe. Her certificate though was submitted for verification, it was misplaced by the respondent for which petitioners cannot be blamed. Since now she is no more, there is no question of proving her caste status. The petitioner No. 2 had applied for getting the tribe validity certificate which is issued to him and there is no dispute. A case is therefore made out that the petitioner No. 2 is entitled to get appointment to any post meant for a person belonging to Scheduled Tribe.

14. This Court thus finds that the mother was also appointed on the post reserved for Scheduled Tribe. Thus, there is no dispute about the tribe status of the petitioner No. 2 who is now seeking an appointment on compassionate ground. However, when the petitioner No. 2 applied for getting an appointment on compassionate ground his application is

rejected on the ground that his case cannot be considered only on the ground that his mother's appointment was on supernumerary post.

15. It is seen from the impugned order itself that the deceased Janabai was appointed on 21/06/1996. Since during her tenure she could not obtain the validity certificate, it is for that reason she was placed on supernumerary post. The deceased Janabai could not produce the validity certificate only for the reason as stated above.

16. This Court in the order dated 14/02/2022 in this petition has already recorded that the original tribe certificate of the deceased was submitted with the employer and the same was misplaced from the office of employer i.e. respondent Nos. 3 and 4. Now the only course available is to accept the deceased Janabai to be belonging to Scheduled Tribe category as petitioner No. 2 has now successfully established his tribe claim.

17. Considering all above, the impugned orders dated 28/10/2025 and 07/11/2025 are quashed and set aside. It is held that the petitioner No. 2 is entitled to be appointed on compassionate ground against the post reserved for Scheduled Tribe i.e. in place of his deceased mother

Janabai. Therefore, the respondents are directed to give appointment to the petitioner No. 2, if he is otherwise eligible.

18. With this, the writ petition stands disposed of.

[AJIT B. KADETHANKAR, J.]

[KISHORE C. SANT, J.]

PS.B.