

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

WRIT PETITION NO. 5078 OF 2014

Suraksha Premsing @ Dilipsing Rajput .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. B. Yawalkar, Advocate for the Petitioner.

Shri G. K. Thigle, Addl.G.P. for the Respondent No. 1.

Shri Vijay Sharma, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 01ST JULY, 2015.

PER COURT :

. Mr. Yawalkar, the learned counsel for the petitioner submits that, the husband of the petitioner was a permanent employee of the respondent No. 2/Zilla Parishad. The husband of the petitioner died on 21.06.2009 while in service. On or about 24.08.2009 the petitioner filed an application before the Civil Judge Senior Division, Jalgaon seeking heirship certificate. On 19.07.2010 the petitioner made an application to the respondent No. 2 seeking appointment on compassionate ground. On 25.11.2010 the said application was rejected as it was not filed within one year. Similar application was made by another lady on 25th August, 2009 and 05th March, 2012. The petitioner

brought to the notice of the respondent No. 2/Zilla Parishad that the proceedings for legal heirship certificate are pending with the Court. The said proceedings came to be decided in the year 2013. The Court issued heirship certificate in favour of the petitioner and negated the contention of other lady. Again the petitioner filed an application, the respondent No. 2 rejected the same. Mr. Yawalkar, the learned counsel submits that, in fact as per Government Resolution dated 31st December, 2002 and more particularly Schedule - C, it is the duty of the employer to communicate the fact of the entitlement of the legal heir to seek appointment on compassionate ground. The respondent No. 2 failed in its duty. The petitioner could not apply within time because of earlier proceedings with regard to legal heirship certificate pending. Even other lady had applied seeking appointment on compassionate ground. It is only by order dated 04.03.2013 the said dispute was resolved. According to the learned counsel, the respondent No. 2 be directed to appoint the petitioner on compassionate ground. The petitioner is eligible to be appointed as a Class - III employee.

2. Mr. Sharma, the learned counsel for the respondent No. 2/Zilla Parishad submits that, the Zilla Parishad does not have power to relax the time period, within which the application has to be given. Even the guidance was sought from the Government. The Government specifically advised the Zilla

Parishad that the period of limitation cannot be relaxed. The learned counsel submits that, as the application is not made within limitation, the same has been rightly rejected. The first application was given on 27.07.2010, the same is rightly rejected.

3. We have considered the submissions canvassed by the learned counsel for respective parties. We have also gone through the Government Resolution dated 31st December 2002, which also cast reciprocal duty on the respondent.

4. On perusal of factual matrix of the matter, it is evident that in the year 2009 proceedings for legal heirship certificate were filed by the petitioner and the dispute was raised by another lady. Said dispute was filed in the year 2009 and it is only in the year 2013 that is on or about 04.03.2013 the Civil Judge Senior Division, Jalgaon allowed the application for heirship certificate filed by the petitioner and the dispute stood resolved. Considering the peculiar facts of the case, it cannot be said that, there was delay on the part of the petitioner. There were clouds over the legal heirship of the petitioner and the said clouds were removed subsequently and the application of the petitioner can be considered more particularly when the petitioner had already filed the application during the pendency of proceedings with regard to heirship certificate itself.

5. Considering the above, we quash and set aside the impugned order passed by the respondent No. 2 rejecting the application of the petitioner for appointment on compassionate ground, on the ground of limitation and direct the respondent No. 2/Zilla Parishad to consider the application of the petitioner for appointment on compassionate ground on its own merits and considering all the relevant aspects of the matter including the Government Resolution. The writ petition is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 15