

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

**WRIT PETITION NO. 3838 OF 2015**

Kisan Dadarao Talekar

.. Petitioner

**Versus**

The State of Maharashtra and others

.. Respondents

Shri A. S. Shelke, Advocate for the Petitioner.

Shri D. B. Bhange, A.G.P. for the Respondent Nos. 1 to 5.

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

**DATE : 15TH JUNE, 2015.**

**PER COURT :**

. Mr. Shelke, the learned counsel for the petitioner submits that, the original application filed by the petitioner has been dismissed on the ground of limitation. The learned counsel submits that, during the pendency of original application before the Tribunal, there was change in policy of the Government and vide Government Resolution dated 10.07.2009, the kins of the deceased were held entitled for appointment on compassionate ground. According to the learned counsel, the name of the petitioner is also included in the seniority list of the persons entitled for appointment on compassionate ground. However, only because of dismissal of original application on the ground of limitation, the name of the petitioner is said to be deleted.

According to the learned counsel, the same is illegal.

2. The learned Assistant Government Pleader states that, the petitioner has alternate remedy before the Maharashtra Administrative Tribunal.

3. The Original Application No. 732 of 2010 along with delay condonation application was filed against the order dated 04.04.2007, wherein the Deputy Director, Social Forest Department had stated that, there is no provision for appointment on compassionate ground. There was delay in filing original application challenging the said order and the application for delay condonation was rejected.

4. Subsequently according to the petitioner vide Government Resolution dated 10th July, 2009, the scheme of compassionate appointment is made applicable and his name was included in the seniority list and same is sought to be deleted. All this would give rise to fresh cause of action. The judgment and order delivered in earlier Original Application No. 732 of 2010 would not come in the way of the petitioner. As the fresh application would be on basis of a separate, distinct and subsequent cause of action. The petitioner is at liberty to avail the alternate remedy. The writ petition accordingly is disposed of. No costs.

5. The interim order passed earlier by this Court, shall continue for a period of eight (8) days from today, so as to enable the petitioner to file appropriate application. Needless to state on lapse of eight days, interim protection granted by this Court shall come to an end.

**[ V. K. JADHAV, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

bsb/June 15