

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

WRIT PETITION NO. 8101 OF 2015

MANGALBAI NIVRUTTIRAO KANDANGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr.Mathpati Shivkumar K
AGP for Respondents/State: Mr.S.K. Kadam.
Advocate for Respondent 4 : Mr.Thorbole M.A.

...
CORAM : S.S. SHINDE & A.M. BADAR, JJ.
Dated: OCTOBER 05, 2015

...
Heard learned Counsel for the petitioner and
learned AGP for Respondents No.1 to 3 and learned
Counsel for respondent No.4. With their able
assistance, perused pleadings and grounds taken in
the petition, annexures thereto and the Maharashtra
Civil Services (Pension) Rules, 1982 and in particular,
sub-rule (6)(a)(i) of Rule 116 of the said Rules and also
the judgment of this Court in case of **Laxmibai
Shripat Kumar vs. Chief Executive Officer, Zilla
Parishad & Ors.**¹

2 The learned Counsel for the petitioner has invited

¹ 2004(6) Bom.C.R. 744;

our attention to the fact that in the service record, the petitioner's name has been included in the service record by her husband Nivrutti during his life time.

3 Upon perusal of the documents placed on record and in the light of judgment of this Court in case of **Laxmibai Shripat Kumar** (supra), the reason assigned by the respondent No.2 that, as per Hindu Marriage Act second marriage is not legal and therefore, being second wife, the petitioner is not eligible for grant of family pension, cannot sustain.

4 In that view of the matter, the impugned communication / order at Exh.G (page 59 of the compilation of petition) stands quashed and set aside. Respondent No.2 is directed to consider the claim of the petitioner on merits, without raising the ground that the petitioner was second wife of late Nivrutti; however, subject to verification of documents and fulfilling the other conditions. Such exercise to be done by the respondent No.2, as expeditiously as possible and preferably within three months from today. It is needless to observe that the petitioner should be given an opportunity to forward the documents, if any, needed by respondent No.2 through respondent No.4. Petition is disposed of in the above terms.

(A.M. BADAR, J)

(S.S. SHINDE, J)