

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3439/2015

(MADHUKAR RAMBAKAS PAWAR & ANOTHER **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri A.N. Dighore, counsel for the petitioner.
Ms T.Khan, A.G.P. for the R-1 to 3.
Shri P.P. Deshmukh, counsel for the R-4.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : AUGUST 25, 2015.

By this petition, the petitioners seek an appointment of the petitioner no.2 on a Class-IV post of Sweeper on compassionate ground as per the recommendations of Lad and Page Committee.

The petitioner no.1 was appointed in the Municipal council as a Sweeper. After the promotion of the petitioner no.1, the post of Sweeper fell vacant and the relative of the petitioner no.1, i.e. Chandrakant Pawar was appointed on the post of Sweeper on 31.07.1985. The petitioner no.1 has retired after attaining the age of superannuation on 31.06.2012. The petitioner no.2 is the son of the petitioner no.1 and, therefore, the petitioners are seeking the appointment of the petitioner no.2 on the post of Sweeper or any other Class-IV post on the basis of the Government Resolution dated 25.10.2011.

Ms Khan, the learned Assistant Government Pleader appearing on behalf of the respondent nos.1 to 3, states that the petitioners have abused the process of Court by filing this writ petition. It is stated that the petitioner no.2 had filed Writ Petition No.165 of 2013 and this Court had, by the order dated 07.11.2014, held that the petitioner no.2 was not entitled to be appointed on the post of Sweeper as after the retirement of the petitioner no.1

from the post of Peon, there was no vacancy arising in the post of Sweeper as the petitioner no.1's relative Shri Chandrakant Pawar was appointed as a Sweeper on 31.07.1985 after the petitioner no.1 was promoted. It is stated that this Court has held in the order dated 07.11.2014 that the post on which the petitioner no.1 was working is occupied since 1985 after the promotion of the petitioner no.1 and no benefit could be extended to the petitioner no.2 after the retirement of the petitioner no.1. It is stated that the petitioners have vexed this Court by filing the writ petition though the petition filed by the petitioner no.2 seeking an identical relief was disposed of after holding that the petitioner no.2 is not entitled to the relief claimed.

We uphold the preliminary objection raised on behalf of the respondent nos.1 to 3 and decline to entertain the writ petition. The present writ petition is barred by the principles akin to the principles of Res-Judicata. The petitioners would not be entitled to file a second petition seeking appointment of the petitioner no.1 on the post of Sweeper, when the previous petition filed by the petitioner no.1 has been disposed of by this Court after holding that the petitioner no.2 was not entitled to the relief claimed.

In the circumstances of the case, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

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