

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

WRIT PETITION NO.883 OF 2016

1. Nandabai w/o. Ramesh Sawant,
Age:42 years, Occ. Household,
r/o. Kini, Tq. and Dist.Osmanabad
 2. Parasram s/o. Ramesh Sawant,
Age:19 years, Occ. Student,
r/o. As above
- ..Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Rural Development and
Water Conservation Department,
Mantralaya, Mumbai – 32
 2. The Chief Executive Officer,
Zilla Parishad, Osmanabad
 3. The Deputy Chief Executive Officer,
Zilla Parishad, Osmanabad
 4. The Executive Engineer (W),
Zilla Parishad, Osmanabad
 5. The Deputy Engineer (W),
Zilla Parishad, Sub-Division,
Osmanabad
- ..Respondents

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Mr.S.B.Bhosale, Advocate for petitioners

Mr.A.V.Deshmukh, AGP for respondent no.1

Mr.S.N.Rodge, Advocate for resolution nos.2 to 5

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : AUGUST 11, 2016**

JUDGMENT: [Per S.S.Shinde, J.]

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

3. This Petition takes exception to the impugned letter dated 30.09.2013 (Exhibit-E)/30.10.2015 (Exhibit-I) issued by Respondent No.2. There is further prayer in the Petition, seeking directions to respondent No.2 to consider the claim of petitioner No.2 for appointment on compassionate ground, as per the Scheme and Government Resolutions dated 26.10.1994, 20.08.1996 and 22.08.2005.

4. It is the case of the petitioners that the husband of petitioner No.1 and the father of petitioner No.2 was serving with respondent Nos.2 to 5 on the post of 'Mail Kamgar', in the pay scale of Rs.2550-55-2660-60-3200 till his unfortunate death on 28.07.2013. He was the only earning member of the family and the entire family was depending upon the remuneration received by him. Petitioner No.1 filed an application on 29.08.2013 with the office of respondent No.2 along with all necessary documents within the prescribed period of limitation, stating therein that the husband of

petitioner No.1 died on 28.07.2013 while he was on duty and the family of the petitioners is facing financial hardship, therefore, petitioner No.2 may be appointed on compassionate ground on any class-IV post, as per the scheme. However, respondent No.2, without considering relevant provisions of the Government Resolutions issued from time to time, directly rejected the legitimate claim of the petitioners by the impugned letter on the ground that since the father of petitioner No.2 was working under the MAHAROOOF agreement and, as such, he is not entitled to be appointed on compassionate ground.

5. The learned counsel appearing for the petitioners places reliance on unreported judgments of this Court in the cases of (i) **Vishnu s/o. Namdeo Lokhande Vs. The State of Maharashtra and others** in Writ Petition No.8463/2015 dated 18.12.2015, (ii) **Sharad Vs. Vishnu Mali Vs. The State of Maharashtra & others** in Writ Petition No.5501 of 2008 and connected Petitions on dated 28.11.2008, (iii) **Jalindar Rawan Awate Vs. State of Maharashtra & Others** in Writ Petition No.5286 of 2011 dated 17.10.2011, (iv) **Sunita w/o. Navnath Lokhande Vs. The State of Maharashtra and others** in Writ Petition No.2654 of 2013 and connected Petition dated 05.09.2013

and (v) **Namdeo s/o. Tukaram Sasane Vs. The State of Maharashtra and others in Writ Petition No.106 of 2015 dated 13.01.2015**, and submits that in the these cases also, the controversy, whether appointment can be given on compassionate ground to the legal representatives of the deceased employee, who accepted MAHAROOF agreement was involved. In all the afore-mentioned unreported judgments, this Court has taken a view that rejection of the claim of appointment on compassionate ground on the ground that the deceased employee was working under MAHAROOF agreement was erroneous, and accordingly the Writ Petitions were allowed. Therefore, he submits that, the present Petition may be allowed.

6. The learned Counsel appearing for the respondents vehemently oppose the prayer in the Petition and submit that the Petition may be rejected.

7. We have carefully perused the reasons assigned by respondent No.2 in the impugned communications, which are placed at Exhibit-E and Exhibit-I of the compilation of the Writ Petition, the other documents placed on record, the judgments of this Court on which reliance is placed by the learned counsel appearing for the petitioners. The only reason assigned in the impugned

communication is that the father of petitioner No.2 accepted MAHAROOF agreement and therefore, in case of the employees, who have accepted MAHAROOF agreement, no appointment can be given on compassionate ground to their legal representatives. An issue raised in this Petition is no more *res-integra* and is covered by the judgments mentioned in the foregoing paragraph.

8. In that view of the matter, the impugned communications at Exhibit-E and Exhibit-I of the compilation of the Writ Petition, are quashed and set aside, and the respondents are directed to reconsider the application of the petitioners afresh on its own merits keeping in view the relevant Government Resolutions/Scheme prepared by the respondents and if petitioner No.2 is found otherwise eligible, take necessary steps to include his name in the seniority list of the eligible candidates, seeking appointment on compassionate ground, as expeditiously as possible, however, within 6 months from today. We make it clear that, the petitioners' claim should not be rejected on the ground that the father of petitioner No.2 had accepted MAHAROOF agreement. We further make it clear that we have not expressed any opinion on the merits

about the entitlement of petitioner No.2, and it is left to the respondents to reconsider the case of the petitioner afresh.

9. The petition is partly allowed. Rule made absolute on the above terms. The Petition stands disposed of accordingly.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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