

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

WRIT PETITION NO.1606 OF 2016

Smt. Nirmalabai w/o. Vishnu Gawali ..Petitioner

Versus

The State of Maharashtra and ors. ..Respondents

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Mr.G.J.Karne, advocate for petitioner

Mr.V.S.Badakh, AGP for respondents

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : JUNE 08, 2016

PER COURT :

Heard.

2] This Writ Petition is filed seeking direction to respondent no.2 to appoint the petitioner's son on compassionate ground by considering the application dated 29.11.2007 (Exhibit 'C') filed by the co-widow of the petitioner namely, Rukhminbai and daughter of petitioner Sow. Shilabai Hiwrale.

3] The learned Counsel appearing for the petitioner invited our attention to the provisions of Government Resolution dated 26.11.1994 issued by the General Administration Department, Government of Maharashtra and in particular, Clause 4 thereof. He submits that the petitioner's prayer to consider the application of her son Kundan Gawali ought to have been considered on the basis of the application dated 29.11.2007. However, the respondents/authorities have considered the prayer of the son of the petitioner on the basis of the application filed by him on 23.02.2011 (Exhibit 'H'). The learned Counsel appearing for the petitioner further invites our attention to the contents of Exhibit 'B' i.e. the letter written by the petitioner to respondent no.2 and submits that even the petitioner did mention in the said letter that the petitioner's family is in desperate need of the employment. He

further invites our attention to the various orders passed by this Court which are placed on record and submits that the present petition deserves to be allowed.

4] On the other hand, the learned AGP appearing for the respondents - State submits that neither the petitioner nor her son Kundan had filed the application on 29.11.2007. He submits that the said application was filed by the co-widow and daughter of the petitioner. Therefore, the same could not have been considered as an application filed by Kundan. He, therefore, submits that the respondents/authorities have rightly considered the application of Kundan filed by him on 23.02.2011 and accordingly, the name of Kundan has been included in the list of eligible candidates to be appointed on compassionate grounds as per their seniority mentioned in the said list. Therefore, he submits that the Writ Petition may

be rejected.

5] We have carefully considered the submissions of the learned Counsel appearing for the petitioner and the learned AGP appearing for the respondent - State. Admittedly, the application dated 29.11.2007 was not filed by Kundan. It is relevant to mention here that at the relevant time, the said Kundan was major. Though the learned Counsel appearing for the petitioner made an attempt to contend that the petitioner has filed an application seeking appointment on compassionate ground on 28.05.2008 (Exhibit 'B'), however, the said application does not seem to have been filed for appointment of Kundan on compassionate ground. In fact, by filing the said application, the petitioner sought information regarding the amounts standing to the credit of her husband. Therefore, the said document, Exhibit 'B' page 15 of the compilation of this

Writ Petition cannot be considered as an application for appointment on compassionate ground by the petitioner. It would have been different matter if the petitioner herself had filed an application for appointment on compassionate ground and relying upon that application, her son Kundan could have requested for seniority from the date of filing of the said application. As already observed, the application dated 29.11.2007 was filed by the co-widow and the daughter of the petitioner and therefore, the same could not have been considered by the authorities in respect of seniority of Kundan. Therefore, we are unable to persuade ourselves to grant the relief as prayed for by the petitioner in respect of his seniority in the list maintained by respondent no.2. Respondent no. 2 would consider the claim of Kundan for appointment on compassionate ground on its own merits as per that seniority.

6] Hence, the present petition stands rejected.

No costs.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

kbp