

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

WRIT PETITION NO.2262 OF 2016

Smt. Harsha Jitendra Patil,
Age 21 years, Occ. Household,
r/o. At post – Kolpimpri,
Tq. Parola, Dist.Jalgaon

..Petitioner

versus

1] Shri Chhatrapati Shivaji
High School Sanstha,
at post Mukti,
Tq. and Dist. Dhule

2] The Principal,
Shri Chhatrapati Shivaji
High School Sanstha,
at post Mukti,
Tq. and Dist. Dhule

3] The Education Officer,
Zilla Parishad, Dhule

..Respondents

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Mr.Subodh Shah, advocate for petitioner

Mr.S.R.Patil, advocate for respondent nos.1 and 2

Mr.S.B.Yawalkar, AGP for respondent no.3

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

DATE : APRIL 12, 2016

PER COURT :

Heard.

2] Rule. Rule made returnable forthwith. By consent of the learned counsel appearing for the parties, the petition is taken up for final hearing.

3] The learned counsel appearing for the petitioner has tendered across the bar a copy of the mark sheet of Second Year, Bachelor of Arts Degree course examination. The same is taken on record. So also, the learned counsel appearing for respondent nos.1 and 2 tenders across the bar the reply on behalf of respondent nos.1 and 2. The same is taken on record.

4] The case of the petitioner is that, she is a single parent of her three year old daughter namely, Bhuvaneshwari. The husband of the petitioner namely, Jitendra died in an accident while he was in the employment of respondent nos.1

and 2. Respondent no.1 is governed by M.E.P.S. Act. The petitioner being in dire need of source of earning for livelihood, applied to respondent no.2 as well as respondent no.3 seeking appointment on compassionate ground. However, her claim for appointment on compassionate ground is being dodged. Therefore, the petitioner has been compelled to file this Writ Petition.

5] The learned counsel appearing for the petitioner submits that the petitioner is a widow aged 21 years having one daughter. It is submitted that the delay of three months caused in filing the application for appointment on compassionate ground, is explained by the petitioner in the present petition. He further submits that merely because some amount was received by the petitioner as compensation from the Motor Accident Claims Tribunal, the same cannot be a ground to refuse the claim of the petitioner for appointment on

compassionate ground. It is further submitted that respondent nos.1 and 2 have not demonstrated that there is no vacancy in the school. The petitioner is qualified to be appointed to the post of Clerk or Peon, as the case may be. Therefore, relying upon the grounds taken in the petition, the learned counsel for the petitioner submits that the petition may be allowed.

6] On the other hand, the learned counsel appearing for respondent nos.1 and 2, relying upon the averments made in the affidavit-in-reply, challenged the petition on the grounds that the application filed by the petitioner was not within time; the petitioner has received the compensation amount in her motor accident claim petition and that there is no vacancy with the respondents at present. The learned counsel for respondent nos.1 and 2 invited our attention to the letter addressed by respondent no.3 and submitted that it

is already clarified in the said letter that, as and when a vacancy would arise in Class-III and Class-IV category in future, keeping in view the relevant policy, the petitioner's claim for appointment on compassionate ground would be considered.

7] We have heard the learned counsel appearing for the petitioner; the learned counsel appearing for respondent nos.1 and 2; and the learned AGP appearing for respondent no.3 - State.

8] The petitioner, in her communication dated 22nd April, 2013 addressed to the Education Officer (Secondary), Zilla Parishad, Dhule, has stated the reasons for delay of three months caused in filing the application for appointment on compassionate ground. The relevant portion from the said letter, reads thus :-

" लग्नानंतर सव्वा वर्षातच मी वयाच्या २१ व्या वर्षी विधवा झाले. पतीच्या निधनानंतर माझी व कुटुंबियांची मानसिक स्थिती फार हवालदिल झालेली होती. त्यावेळी मी ८ महिन्यांची गर्भवती होती. सासर व माहेरची परिस्थिती गरिबीची असल्याने आता पुढे काय? असा प्रश्न भेडसावत होता. तशातच दि.२०/१०/२०१२ रोजी मला मुलगी झाली. माझी व माझ्या मुलीचा जबाबदारीचा प्रश्न दोघा कुटुंबाना भेडसावत होता. पतीच्या अपघाती निधनाच्या दुखातून व बाळंतपानानंतर मी चार पाच महिन्यांनंतर स्थिर स्थावर झाले. माझे कुटुंबीयांनी संस्थेकडे मला पतीच्या जागेच्यावर सामावून घ्या म्हणून तोंडी विनंती केली होती."

9] In the light of the contents of the aforesaid letter, we are satisfied that there was a genuine cause for the delay in filing the application for appointment on compassionate ground. Secondly, though the petitioner has received some amount in motor accident claims petition, the same cannot be a ground to refuse appointment to the petitioner on compassionate ground. Admittedly, age of the petitioner is twenty one years and her three year old daughter is depending upon her.

10] Therefore, in the peculiar facts of the case, we direct the respondents to consider the claim of

the petitioner in the immediate/next vacancy in Class-III or Class-IV post, which would arise with respondent no.1 - Society.

11] We make it clear that the respondents shall not raise any query about delay in filing the application for appointment on compassionate ground or shall not negate the claim of the petitioner on unsustainable ground, and shall consider the same keeping in view the fact that the petitioner is a twenty one year old widow having the responsibility to maintain her three year old daughter.

12] We make it clear that respondent nos.1 and 2 shall not make any further appointment to the post of Clerk or Peon, as the case may be, unless the claim of the petitioner is considered in the immediate/next vacancy.

13] The petition is allowed. Rule is made absolute in the above terms.

14] The parties to act on authenticated copies of this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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