

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

WRIT PETITION NO. 4239 OF 2016

**SHAIKH TAUSIF SHAIKH JAMAAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr.Syed Azizoddin, Advocate for petitioner

Mr.S.D.Kaldate, AGP for respondent nos.1 and 2

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

DATE : JUNE 16, 2016

PER COURT :

Heard the learned Counsel appearing for the petitioner and the learned AGP appearing for respondent nos.1 and 2.

2] We have perused the Minutes of meeting, copy of which is placed on record by the petitioner at Exhibit "F" page 39 to the petition. For the purpose of deciding this Writ Petition, clause 9 of the said Minutes of the meeting is relevant, which reads thus :-

"९. श्री. शेख तौफीक शेख जमाल यांनी लाडपागे तत्वावर नियुक्ती मिळण्यासाठी अर्ज सदर केला आहे. श्री.शेख जमाल दिनांक २८/२/२०१२ रोजी सेवानिवृत्त झाले असून श्री.शेख तौफीक यांनी नियुक्ती मिळण्यासाठी दिनांक १२/११/२०१४ रोजी सादर केलेला आहे. त्यांचा अर्ज दिनांक २६/२/२०१४ आणि १०/११/२०१५ रोजीच्या शासन निर्णयानुसार कालबाह्य ठरविण्यात येत असल्याचा समितीने सर्व संमतीने निर्णय घेतला आहे."

3] It appears that relying on the Government Resolution dated 10.11.2015 and in particular, clause 2 thereof, it was observed in the said Minutes of meeting, that the petitioner's application for appointment on compassionate ground is not within one year from the date of retirement of his father.

4] The learned Counsel appearing for the petitioner, relying on the Government Resolution dated 11.09.1996 issued by the General Administrative Department, Government of

Maharashtra, submits that the said resolution provides that in case, the legal heirs of a retired employee is minor, he would be entitled to file the application for appointment on compassionate ground within one year on attaining the age of 18 years. Therefore, he submits that the petitioner has filed the application for appointment on compassionate ground within one year on attaining the age of 18 years. He, therefore, submits that the respondents may be directed to consider the application of the petitioner afresh taking in view the Government Resolution dated 11.09.1996 issued by the General Administrative Department, Government of Maharashtra.

5] The learned A.G.P., relying on the Government Resolution issued by the Social Justice Department, Government of Maharashtra on 10.11.2015, submits that the provisions to file

such application within one year on attaining the age of 18 years, is not provided in the said Government Resolution and therefore, he submits that the application of the petitioner has rightly been turned down by the respondents.

6] We have given careful consideration to the submissions advanced by the learned Counsel for the petitioner and the learned A.G.P. for the State.

7] It appears that while considering the petitioner's application, the respondents have not taken into consideration the Government Resolution dated 11.09.1996 issued by the General Administrative Department, Government of Maharashtra.

8] Therefore, in the peculiar facts and circumstances of this case, the respondents are

directed to consider the application of the petitioner afresh taking in view the aforementioned Government Resolution issued by the General Administrative Department, Government of Maharashtra and if the application of the petitioner is within one year from attaining the age of 18 years by the petitioner, the respondents shall take appropriate decision on the said application on merits, without raising the same grounds which have been reflected in Clause 9 of the Minutes of meetings, as referred herein-above.

9] The respondents shall consider the application of the petitioner as directed above, as expeditiously as possible, however, within a period of eight weeks from today and communicate the decision to the petitioner.

10] In the light of the above, the petition stands disposed of accordingly.

11] The parties to act on authenticated copies fo
this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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