

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

**WRIT PETITION NO. 10862 OF 2015**

- 1] Smt. Radhabai wd/o. Sugriv Survase,  
Age: 49 Years, Occu: Household
- 2] Akrur s/o. Sugriv Survase,  
Age: 27 Years, Occu: Nil

Both R/o. Kolwadi, Tq. & Dist.  
Beed.

**PETITIONERS**

**VERSUS**

- 1] The State of Maharashtra  
Through its Secretary,  
Rural Development &  
Water Conservation Department,  
Mantralaya, Mumbai – 32.  
[Copy to be served on G.P.  
High Court of Bombay,  
Bench at Aurangabad]
- 2] The Chief Executive Officer,  
Zilla Parishad, Beed
- 3] The Deputy Chief Executive Officer,  
Zilla Parishad, Beed
- 4] The Executive Engineer [W]  
Zilla Parishad, Beed.
- 5] The Deputy Engineer [W]  
Zilla Parishad, Sub-Division,  
Beed, Dist. Beed.

**RESPONDENTS**

...  
Mr. Sanjay B. Bhosale, Advocate for the  
Petitioners

Mr. V.S.Badakh, AGP for Respondent – State

Mr. K.U.More, Advocate for Respondent No.3

...

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

**DATE: 26.04.2016**

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

Heard.

2] Rule. Rule made returnable  
forthwith, and heard finally with the consent  
of the parties.

3] This Petition takes exception to the  
impugned letter dated 15.04.2015 / 18.04.2015  
[Exhibit-F] 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 15<sup>th</sup> March, 1990. 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 3<sup>rd</sup> September, 1990, 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 15<sup>th</sup> March, 1990, 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.

5] It is the case of petitioner No.1 that she was asked to work privately in the house of the Executive Engineer, she, therefore, relying upon the assurance of the said Officer that petitioner No.1 will get appointment on compassionate ground, continued to work years together in the house of the Executive Engineer [Works], Zilla Parishad, Beed. However, it is the case of the petitioners that, the said Officer did not take steps to appoint petitioner No.1 on the Class-IV post on compassionate ground. At the relevant time, when the mother of petitioner No.2 applied, petitioner No.2 was 2 years of age, and thereafter, on attaining the age of majority on 22.12.2014, petitioner No.2 applied for appointment on compassionate ground. 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 MAARUF Agreement, and as such, he is not entitled to be appointed on compassionate ground.

6]           The learned counsel appearing for the petitioners places reliance on unreported Judgment of the Bombay High Court, Bench at Aurangabad, in the case of *Vishnu s/o. Namdeo Lokhande Vs. The State of Maharashtra and others* in Writ Petition No.8463/2015, decided on 18.12.2015, the Judgments of the Division Bench of this Court in the case of *Sharad Vs. Vishnu Mali Vs. The State of Maharashtra & others* [W.P. No.5501 of 2008 and connected Petitions, decided on 28.11.2008], *Jalindar Rawan Awate Vs. State of Maharashtra & Others* [W.P.No.5286 of 2011, decided on 17.10.2011], *Sunita w/o. Navnath Lokhande Vs. The State of*

*Maharashtra and others* [W.P. No.2654 of 2013 and connected Petition decided on 05.09.2013], and *Namdeo s/o. Tukaram Sasane Vs. The State of Maharashtra and others* [W.P. No.106 of 2015, decided on 13.01.2015], and submits that in the said decided cases also the controversy whether appointment can be on compassionate ground given to the legal representatives of the deceased employee, who accepted MAARUF 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 MAARUF Agreement was erroneous, and accordingly Writ Petitions were allowed. Therefore, he submits that, the present Petition may be allowed.

7] The learned counsel appearing for the Respondents, vehemently, opposed the

prayer in the Petition and submit that, the Petition may be rejected.

8] We have carefully perused the reasons assigned by respondent No.2 in the impugned communication, which is placed at Exhibit-F of the compilation of the Writ Petition, and also the other documents placed on record, and 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 MAARUF agreement, and therefore, those employees, who have accepted MAARUF 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.

9] In that view of the matter, the impugned communication is 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 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 MAARUF 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.

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

Sd/-

**[SANGITRAO S.PATIL,J.]**

Sd/-

**[S.S.SHINDE,J.]**

DDC