

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

WRIT PETITION NO.9843 OF 2015

1. Mhatardeo s/o Bhaurao Shekde,
Age 38 years, Occu: Agri.,
r/o Masubachiwadi Tal.Asti,
Dist. Beed.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Rural Development and Water
Conservation Department,
Mantralaya, Mumbai.
2. The Chief Executive Officer,
Zilla Parishad, Beed,
Dist. Beed.
3. The Deputy Engineer (Works),
Sub-Division, Asti,
Dist. Beed.

...RESPONDENTS

...

Mr. P.K.Wagh, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent State.
Mr.R.B.Dhaware, Adv., for respondent nos. 2 & 3.

...

CORAM: S.S.SHINDE

AND

P.R.BORA, JJ.

DATE : February 11th, 2016

ORAL JUDGMENT: (Per S.S.Shinde, J.)

1. Rule. Rule made returnable forthwith and heard forthwith with the consent of the parties.

2. It is case of the petitioner that father of the petitioner, namely, Bhaurao s/o Dashrath Shekde was working with respondent no.2 and 3 as Mail-Worker (Mail-Kamgar) on permanent post with Asti Sub Division, unfortunately, on 1.6.1999 due to the motor accident he suffered permanent physical disability and on 10.11.2003 he died.

It is further case of the petitioner that since family of the petitioner is facing difficulties, the petitioner applied for appointment on compassionate ground on 20.7.1999 and on 24.12.2014. However, by impugned communication, the Chief Executive Officer, Zilla Parishad, Beed, communicated the petitioner that no appointment can be given to the legal representatives who have accepted MAARUF Agreement. Hence, this petition.

3. Learned Counsel appearing for the petitioner invited our attention to the judgments of Division Bench of this Court in the cases of **Sharad s/o. Vishnu Mali Vs. The State of Maharashtra & Ors.** (W.P. No. 5501 of 2008 & connected petition decided on 28.11.2008), **Jalindar Rawan Awate Vs. State of Maharashtra & Ors.** (W.P. No. 5286 of 2011 decided on 17.10.2011), **Sunita w/o. Navnath Lokhande Vs. The State of Maharashtra & Ors.** (W.P. No.2654 of 2013 & connected petition decided on 05.09.2013) & **Namdeo s/o. Tukaram Sasane Vs. The State of Maharashtra & ors.** (W.P.No.106 of 2015 decided on 13.01.2015) and submits that

in the said decided cases also controversy in respect of whether appointment can be given to the legal representatives of the deceased employee who accepted MAARUF Agreement was involved. In all these aforementioned unreported judgments, the Division Bench 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.

4. In that view of the matter, in the present case also, the petitioner's claim for appointment on compassionate ground has been rejected on the ground that petitioner's father accepted MAARUF Agreement. In our opinion as already observed, the issue raised in this petition is no longer res integra and covered by the aforesaid judgments. In that view of the matter the impugned communication is quashed and set aside. If there is vacancy, the respondents are directed to consider expeditiously the prayer of the petitioner for appointment on compassionate ground subject to fulfillment of other conditions.

5. The writ petition is disposed of in above terms. Rule made absolute accordingly. No costs.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

...