

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

WRIT PETITION NO. 9936 OF 2015

Sandip Vinod Karhale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. R. Barlinge, Advocate for Petitioners.

Ms. Vaishali N. Patil, AG.P. for Respondent Nos. 1 and 2.

Shri S. R. Dheple, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 19TH DECEMBER, 2016.

PER COURT :

. The petitioner has filed present writ petition seeking appointment on compassionate ground. The petitioner claims to be the adopted son of the deceased Vinod Karhale.

2. Mr. Barlinge, the learned counsel for the petitioner states that, prior to the petitioner, the adoptive mother of the petitioner had also filed application and this Court in Writ Petition No. 1859 of 2014 under order dated March 24, 2015 had directed the respondents herein to consider the said application. The said application is not yet decided. According to the learned counsel, even the petitioner would be entitled to be appointed on

compassionate ground. The adoption deed dated 08.06.2012 very specifically states that, the petitioner is adopted by the deceased Vinod Bhaurao Karhale. The learned counsel further submits that, the adoption deed itself states that, there is custom and usage amongst the said community to adopt the near relative and also about custom that there is no bar of age.

3. We have heard Mr. Dheple, the learned counsel for the respondent No. 3 and Ms. Patil, the learned A. G. P. for respondent Nos. 1 and 2.

4. The petitioner it seems was of 17 years of age on the date of adoption. The provisions of Sec. 10(iv) of the Hindu Adoption and Maintenance Act will also have to be considered. The only exception is custom and usage, which the petitioner has to prove. It is for the petitioner to show that to the authorities.

5. It is submitted that the mother's application is pending with the respondent for appointment on compassionate ground. This Court had already directed the respondents herein to consider the said application on its own merits under order dated March 24, 2015. The said application is also not yet decided.

6. Considering the above, we pass following order.

7. The respondent Nos. 2 and 3 shall consider the application filed by the mother of the petitioner and/or petitioner on its own merits, in accordance with law and shall take decision on it expeditiously and preferably within a period of four (04) months from today. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 16