

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

Writ Petition No. 11924 of 2015

District : Parbhani

Shripad s/o. Datta @ Dattarao Poul,
Age : 28 years,
Occupation : Nil,
R/o. Prasad Nagar, Behind
Mahanubhav Ashram, Parbhani.

.. Petitioner.

versus

1. The State of Maharashtra,
through Secretary in the
Department of General
Administration, Mantralaya,
Fort, Mumbai - 32.

2. The Chief Executive Officer,
Zilla Parishad, Parbhani,
District : Parbhani.

3. The Executive Engineer
(Construction),
Zilla Parishad, Parbhani,
District : Parbhani.

.. Respondents.

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Mr. A.A. Mukhedkar, Advocate, for the petitioner.

*Mrs. A.V. Gondhalekar, Asst. Government Pleader,
for respondent no.1.*

*Mr. Sharad S. Shinde, Advocate, holding for
Mr. V.V. Bhavthankar, Advocate, for respondent no.2.*

Respondent no.3 served (Absent).

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

DATE : 3RD MAY 2016

PER COURT :

Heard the learned Counsel appearing for the petitioner, the learned Asst. Government Pleader appearing for respondent no.1 and the learned Counsel appearing for respondent no.2. None present for respondent no.3 though served.

2. This Writ Petition takes exception to the communication / order dated 4th November 2015, passed by the Chief Executive Officer, Zilla Parishad, Parbhani.

3. The learned Counsel appearing for the petitioner submits that the petitioner is appointed as a nominee of the deceased Dattarao Hiranman Poul and, therefore, the reason assigned in the impugned communication / order, that the petitioner should produce the legal heir certificate cannot be sustained. He submits that the son of the second wife of Dattarao, namely, Sanjay, has crossed the age of 45 years and, therefore, he is not entitled to be considered for the appointment on compassionate ground. He further submits that the petitioner is under desperate need of the appointment on

compassionate ground and, therefore, petition deserves consideration.

4. It appears that the respondent no.2 in the impugned order has observed that though it is claimed by the petitioner that there is a consent letter by other family members, the same is not signed by Yamunabai Dattarao Poul and Sanjay Dattarao Poul. Respondent no.2, keeping in view the record maintained by the office about claim of the petitioner for appointment on compassionate ground, reached to the conclusion that in absence of consent by Yamunabai Dattarao Poul and Sanjay Dattarao Poul, petitioner's claim cannot be considered in absence of legal heir certificate issued by the competent Court. Admittedly, the father of the petitioner died in the year 2006. The learned Counsel for the petitioner fairly states that at the relevant time also, the petitioner was major, however, the mother of the petitioner filed application with a request to appoint the petitioner on compassionate ground.

5. Upon considering the documents placed on record and after considering the rival contentions, in our opinion, in the first place, the object to consider the request for appointment on compassionate ground has lost its efficacy in view of the fact that the petitioner's father died in the year 2006 and the family of the petitioner survived for more than 10

years.

6. Apart from above, the appointment on compassionate ground is exception to the appointments to the public employment after following proper procedure and, therefore, in the light of factual scenario which has emerged due to objection raised by the other legal representatives of deceased Dattarao, even today, petitioner's prayer for appointment on compassionate ground cannot be considered on merits. It is needless to observe, that the dispute between the parties claiming to be who is the real legal representative of the deceased Dattarao cannot be considered by this Court.

7. In the light of discussion in the forgoing paragraphs, we are unable to persuade ourselves to grant any relief to the petitioner. We do not see any reason to interfere in the impugned communication / order.

8. In the result, the Writ Petition fails and the same is rejected.

(SANGITRAO S. PATIL)
JUDGE

(S.S. SHINDE)
JUDGE

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