

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

Writ Petition No.10330 of 2016

* Priyaka Pankaj Patil,
Age 28 years,
Occupation: Nil,
R/o C/o Dilip Bhimrao Patil,
Kadewadi, Nadenagar,
Bharat Colony, Near Mane School,
Pimpri Pune,
Taluka & District Pune. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through Secretary,
Tribal Welfare Department
Mantralaya, Mumbai - 32.
- 2) The Commissioner,
Tribal Development Department,
Tribal Commissioner Office,
Nasik, Taluka & District Nasik
- 3) The Project Officer,
Tribal Development Department,
Taloda, District Nandurbar.
- 4) Government Post Basic Ashram
Shala, Talamba,
Taluka Akkalkuwa,
District Nandurbar,
Through its Head Master.
- 5) Surekhabai Nimba Patil,
Age 65 years,
Occupation: Household,
R/o A/P Saine,
Taluka and District Dhule. .. **Respondents.**

Shri. A.R. Syed, Advocate, for petitioner.
Shri. A.R. Kale, Assistant Government Pleader,
for respondent Nos.1 to 4.
Shri. V.P. Raje, Advocate, holding for Shri. H.F.
Pawar, Advocate, for respondent No.5.

**Coram: T.V. NALAWADE &
SANGITRAO S. PATIL, JJ.**

Date: 27 February 2017

ORAL JUDGMENT:

1) Rule, rule made returnable forthwith. By consent, heard both sides for final disposal.

2) The petition is filed for giving directions to the respondents to consider the application made by the present petitioner to give her appointment on compassionate ground. Her husband was in employment of respondent No.4 as Junior Clerk and he died when he was in the employment. It appears that respondent No.5, who is the mother of the deceased, is not giving consent for giving such appointment to the petitioner. Due to this circumstance, respondent No.3 is not giving decision on the application made by the petitioner.

3) Learned counsel representing respondent No.5 submits that she is old lady and she was dependent for her livelihood on the deceased and she is not sure that the present petitioner will maintain her if she gets such appointment. Respondent No.5 due to her age cannot get appointment and the main dependent was the petitioner. In view of these circumstances this Court holds that if there is no other obstacle, the present petitioner is entitled to get such appointment. There will no necessity to get consent of respondent No.5, mother of the deceased for giving such appointment. The learned counsel for the petitioner has placed reliance on the observations made by this Court at this Bench in **Writ Petition No.1863/2014 (Pravin Nimbalkar v. The State of Maharashtra and others)**.

4) The apprehension of the respondent No.5 can be taken care of by giving some specific directions in her favour.

5) In the result, the petition is allowed. Respondent No.3 is to give decision on the representation made by the petitioner for giving her appointment on compassionate ground within 45 days from the date of receipt of this order. Respondent No.3 should not insist for getting consent of respondent No.5. However, undertaking is to be obtained from the petitioner that she will give one-third of the salary to the respondent No.5 if she gets such appointment. Further the undertaking should contain statement that the petitioner will have no objection if such amount is deducted directly from her salary and it is sent to respondent No.5. Respondent No.5 will be entitled to get this amount till her death. The application is to be decided on its own merits by the respondent No.3. Rule made absolute in those terms.

Sd/-
(SANGITRAO S. PATIL, J.)

Sd/-
(T.V. NALAWADE, J.)

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