

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

WRIT PETITION NO.5199 OF 2016

1. Smt.Amrapali wd/o.Madhukar Harbade,
Age: 36 yrs. Occu: Household.
2. Bhushan s/o.Madhukar Harbade,
Age: 19 yrs. Occu: Education
Both are R/o. Panchwati Colony,
Palodi Road, Manwat,
Tq. Manwat, Dist. Parbhani. **PETITIONERS**

VERSUS

1. The State of Maharashtra
Through Director of Agriculture
Marketing, Maharashtra State,
Pune.
2. The District Deputy Registrar,
Cooperative Societies, Parbhani,
Tq. & Dist. Parbhani.
3. The Divisional Joint Registrar,
Cooperative Societies, Aurangabad,
Tq. & Dist. Aurangabad.
4. The Assistant Registrar,
Cooperative Societies, Manwat,
Tq. Manwat, Dist. Parbhani.
5. The Chairman / Secretary,
Agriculture Produce Market Committee
Manwat, Tq. Manwat,
Dist: Parbhani **RESPONDENTS**

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Mr.D.M.Shinde, Advocate for the Petitioners
Mr.S.S.Dande, AGP for the Respondent/State
Mr.K.B.Jadhav, Advocate for respondent no.5.

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**CORAM: S.S.SHINDE &
S.M.GAVHANE, JJ.**

Reserved on : 02.02.2018
Pronounced on : 08.02.2018

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

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

2] This Petition is filed with the following prayers:

(A) By way of Writ of Mandamus or any other appropriate Writ or Direction or Order, in the like nature the respondents be directed to give appointment to one of the petitioner [Preferably petitioner no.2] on suitable post under the policy of compassionate ground at her/his husband's/father's place in

respondent no.5 committee for which she/he is entitled as per rules.

3] It is the case of the petitioners that, husband of petitioner no.1, and father of petitioner no.2 [for the sake of brevity 'deceased'] died on 16th January, 2011, while he was in employment/service of respondent no.5. The father of petitioner no.2 was appointed from S.C. category. He worked as Clerk till 2010, and promoted as 'Statistics Officer'. He died on 16th January, 2011, during the course of employment. The father of petitioner no.2 died leaving behind wife i.e. petitioner no.1 and son i.e. petitioner no.2.

4] It is further the case of the petitioners that, petitioner no.1 filed an application for compassionate appointment on 13th September, 2011. The said application was filed within one year from the death of husband of petitioner no.1. The copy of the

said application was marked to respondent nos.2 and 4. Along with the said application, necessary documents were placed on record. Petitioner no.1 made repeated request to respondent no.5 to appoint her on compassionate ground, however, her claim/grievance is not redressed till date. It is further the case of the petitioners that, when petitioner no.1 filed application, petitioner no.2 was minor. Petitioner no.2 became major on 2nd February, 2015. As per the instructions of petitioner no.1, petitioner no.2 filed application on 25th May, 2015, to appoint him on compassionate ground in place of his father. He again filed application in the nature of reminder on 24.02.2016 and 20.02.2016, and requested respondent no.5 to appoint him on compassionate ground. Respondent no.4 has issued one letter to respondent no.5 to consider the application of petitioner no.2 in accordance with the

Rules, however, till date the said application is not considered by respondent no.5. Learned counsel appearing for the petitioners invites our attention to the copies of the various letters / representations written by the petitioners to the respondents.

5] It is further the case of the petitioners that, the petitioners are facing financial crunch and to overcome the said financial difficulties faced by them, it is necessary to appoint petitioner no.2 on compassionate ground. It is further the case of the petitioners that, the claim of the petitioners is pending since the year 2011, however, instead of appointing petitioner no.1 or after 2015 petitioner no.2, respondent no.5 appointed other persons on compassionate ground though the petitioners filed applications for appointment on compassionate ground. Therefore, relying upon

the grounds taken in the Petition, relevant Government Resolutions dated 26th November, 1994, 11th September, 1996 and 22nd August, 2005, issued by the General Administration Department, Government of Maharashtra. The learned counsel appearing for the petitioners submits that, the Petition may be allowed.

6] On the other hand, learned counsel appearing for respondent no.5, relying upon the averments in the affidavit-in-reply submits that, already three persons are appointed on compassionate ground. The claim of those three appointees was prior to the claim of the petitioners for appointment on compassionate ground. Therefore, he submits that, the Petition may be rejected.

7] We have considered the submissions of the learned counsel appearing for the petitioners, learned AGP appearing for the respondent-State, and learned counsel

appearing for respondent no.5. It appears that, though the petitioners belong to 'Scheduled Caste' category, petitioner no.1 was not appointed when there was one vacancy available for S.C. category in the year 2012. It appears that, the appointment was given to Satyashil Hirabhau Dhebadse on 4th February, 2013 as 'Shipai' in Class-VI category. Therefore, *prima facie* it appears that, the application of petitioner no.1, which was filed in the year 2011, and the application of petitioner no.2, which was filed in the year 2015, when he became major, have not been considered by respondent no.5. Keeping in view the date of filing of the applications, and the relevant Government policy, and the fact that the petitioners belong to S.C. category.

8] It is clear from the affidavit-in-reply filed by respondent nos.2 and 4 that, respondent no.4 directed respondent no.5,

vide letter dated 11th October, 2011, 20th February, 2016 and 8th November, 2017, for taking appropriate steps/action on the applications filed by the petitioners.

9] In the light of the discussion herein above, we direct respondent no.5 to consider the claim of petitioner no.2, keeping in view the date of application of petitioner no.1 i.e. in the year 2011, and to take appropriate decision, as expeditiously as possible, however, within 8 weeks from today. Till the application of the petitioners is considered on merits, and the decision is taken to that effect, respondent no.5 shall not fill-up the vacancies in respect of Class-IV employees.

10] We make it clear that we have not expressed any opinion on merits of the claim of the petitioners, and it is for respondent no.5 to decide the said claim on its own

merits, keeping in view the relevant Government Resolutions / procedure and guidelines, if any.

11] Rule is made absolute on above terms. The Writ Petition stands disposed accordingly.

[S.M.GAVHANE]
JUDGE

[S.S.SHINDE]
JUDGE

DDC