

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

WRIT PETITION NO. 5890 OF 2018

RAHULKUMAR PUNAMCHAND MORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Ms. Surekha P. Mahajan
AGP for Respondents No.1 and 2 : Mr. A. B. Chate
Advocate for Respondents No.3 and 4 : Mr. Rakesh Nemichandji Jain
...

**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 27th NOVEMBER, 2018

Order :-

Heard learned counsel for appearing parties.

2. In the impugned order, while refusing approval to the appointment of the petitioner on compassionate ground, two reasons are assigned; *Firstly*, there are surplus teachers, and, *Secondly*, Committee constituted under Chairmanship of the Commissioner of Education, Pune, is in process to prepare and finalize the Staffing Pattern for entire State and till that time, no appointments can be made or approval cannot be granted on new post.

3. The prayer of petitioner is, for his appointment on compassionate ground in place of his father, who was working as a clerk with respondents No. 3 and 4.

4. During the course of hearing, learned counsel appearing for respondents- Management submit that due to the death of father of petitioner the post of clerk was vacant, however, the same is filled in

by promotion from the cadre of peon. As a result, there is vacancy of the post of peon.

Further, reason of surplus teachers would not apply to the case for appointment on compassionate ground, since such appointments are made to address/ an immediate financial crunch faced by the family of the deceased, who died in harness.

5. In that view of the matter, both the reasons assigned in the impugned order are not sustainable. Moreover, in the present case, it is contended by learned counsel appearing for petitioner that the petitioner is eligible and qualified to be appointed on compassionate ground.

6. In the light of above, the impugned communication dated 21st April, 2018 issued by respondent No.2 is quashed and set aside. Respondent No. 2 Education Officer (Secondary) Zilla Parishad, Jalgaon is directed to consider proposal of the petitioner for approval afresh and take decision on it, as expeditiously as possible, however, within a period of six weeks from today. We make it clear while considering the proposal of the petitioner a fresh for his appointment on compassionate ground, Education Officer shall not raise - assign same reasons, which are mentioned in the impugned order.

7. With the above directions, writ petition stands disposed of.

[K. K. SONAWANE, J.]

[S. S. SHINDE, J.]