

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

WRIT PETITION NO. 13293 OF 2017

MANGAL ANIL NAVGHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Petitioner : Shri Ashtekar R.K. a/w Ms.Chaya S. Shinde.
AGP for Respondent 1/ State : Shri S.M.Ganachari.
Advocate for Respondent 2 : Shri P.R.Tandale.

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**CORAM: PRASANNA B. VARALE
AND
RAVINDRA V. GHUGE, JJ.**

DATE :- 12th September, 2018

Per Court :-

- 1 Heard the learned Advocate for the Petitioner.
- 2 Initially the learned Advocate for the Petitioner prayed for an adjournment so as to file the rejoinder to the affidavit in reply filed on behalf of the Respondents. Considering the earlier orders passed by this Court and considering the grievance raised in this petition, we are not inclined to grant any adjournment on the ground of filing the rejoinder.
- 3 The learned Advocate for the Petitioner was, therefore, requested to address us on merits of the petition.
- 4 The learned Advocate for the Petitioner submits that the Petitioner is before this Court seeking directions to the Respondents and

more particularly Respondent No.2 to consider the claim of the Petitioner for appointment on compassionate ground in Class 3 or Class 4 category in the Zilla Parishad, Latur. It is submitted that the father of the Petitioner, namely, Shri Murlidhar Pralhad Tingre was working as a Pump Operator in the Zilla Parishad, Latur. While in service, the Petitioner's father expired on 09.07.2006. The Petitioner is having academic qualification of 10th standard passed and is belonging to Nomadic Tribe-B category. The application was submitted by the Petitioner on 18.12.2007, however, the authority has failed to consider the application. Thus, the Petitioner is before this Court seeking the directions.

5 Reliance is also placed by the learned Advocate on the order passed by this Court on 04.04.2017 in Writ Petition No.6725/2015. The Division Bench of this Court considering one resolution of the State Government i.e. 19.12.2003 directed the Respondent Authority to consider the claim of the Petitioner therein for compassionate appointment.

6 The learned Advocate for the Respondent/ Zilla Parishad vehemently opposes the petition and invites our attention to the affidavit in reply filed on behalf of the Zilla Parishad. Firstly, it is submitted that the claim of the Petitioner is at a belated stage and the Petitioner approached this Court with an inordinate delay of more than 10 years. It is submitted that in view of the various judgments of this Court as well as

the Honourable Supreme Court, the principle for providing the compassionate appointment is crystallized. The object of such appointments, which are not regular appointments, is to provide succour to the family in distress. It is then submitted that such assistance is to be provided when there is need of assistance and it certainly cannot be said that after 10 years, the Petitioner is still in need of succour.

7 The learned Advocate for the Zilla Parishad then submitted that the post on which the Petitioner's father was working was created from the self finance basis of the Zilla Parishad and the same was filled in under the scheme of self finance. The nature of such appointments itself was for a limited period. Such posts were to abolish on account of the retirement of the employees or on account of the death of the employees. These posts not being sanctioned regular posts, the claim of the Petitioner to consider her on such posts, is unsustainable.

8 Then there are other issues raised in the affidavit in reply, namely, no consent obtained from other heirs of the deceased employee. It is stated that the Petitioner is not the sole heir of the deceased, but in view of the order passed by the competent court, apart from the Petitioner, there are other heirs and this fact is reflected at page 40 wherein, the Petitioner along with other heirs approached the Court for seeking a succession certificate.

9 The learned Advocate for the Zilla Parishad also submitted

that the Petitioner is a married daughter of the deceased employee having more than two children. The Petitioner in her application has not stated all relevant facts and on the complaint made by the stepbrother of the Petitioner, it was revealed that the Petitioner was married and having more than two children i.e. the Petitioner is having six children out of them, two are sons. Thus, on account of non disclosure of true and relevant facts also, the claim of the Petitioner could not have been entertained by the Zilla Parishad.

10 Considering these rival submissions, we find considerable merit in the submissions of the learned Advocate for the Zilla Parishad. He was also justified in submitting that no right is created in favour of the heirs of the deceased employee. Even though other points are raised to submit that the Petitioner is not the sole heir, it may not be necessary for us to deal with those points in detail, suffice it to say that considering the above referred submissions of the learned Advocate for the Zilla Parishad, we are of the opinion that the petition is devoid of merit. As such, this Writ Petition is dismissed.