

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

WRIT PETITION NO.1490 OF 2019

**ROHINI RAVINDRA SHESH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.H.V. Patil, Advocate for the petitioners.
Mr.S.S. Dande, AGP for respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 04.02.2019

P.C. :-

1. Heard learned Counsel for the petitioners. Considering the issue raised in the petition, the petition is taken up for hearing disposal at the stage of admission.

2. It may be necessary to refer to certain facts in brief giving rise to the present petition. The husband of petitioner No.1 was working as a Watchman with respondent No.3 i.e. Government Polytechnic School at Kandar, Tal. Kandar, Dist. Nanded. Petitioner No.1 is the State of Maharashtra through its Secretary, Higher

and Technical Education. Respondent No.2 is the authority of the State i.e. the Dy. Director, Vocational Education and Training, Regional Office, Nanded. Petitioner Nos.2 and respondent No.4 are sister and brother *interese* and are issues of petitioner No.1 and deceased employee i.e. husband of petitioner No.1 (Ravindra Shesh). On 21.07.2014 respondent No.4 submitted an application to respondent No.3 along with consent letter. It is stated in the consent letter that family of deceased Shri Ravindra Shesh consists of three members Smt.Rohini wd/o. Ravindra Shesh, Roopa d/o. Ravindra Shesh and Laxmikant s/o. Ravindra Shesh. Though it is stated in the consent letter that daughter – Roopa is unmarried, but while referring to her as Miss Roopa Ravindra Shesh, at the endorsement of the consent letter, it seems that Roopa was married in the meantime, as such, endorsement refers to as Mrs. Roopa w/o. Vasantmadhav Tapowankar. There is also a copy of heir-ship certificate placed on record dated 05.07.2014 issued under the seal of 3rd Jt. Civil Judge, J.D., Nanded. In view of the application along

with documents in the form of consent letter and heirship certificate, name of respondent No.4 was entered into the list maintained for providing compassionate appointment and respondent No.4 was at Sr.No.17 in the said list. In the year 2018, petitioner No.1 submitted an application to respondent No.2 – Dy. Director. It is stated that initially respondent No.4 had submitted an application seeking compassionate appointment and he was enlisted in the office record for providing compassionate appointment, but due to certain mistake/reasons, petitioner No.1 is seeking cancellation of nomination of respondent No.4 and instead prayed for nomination of petitioner No.2 and then further prayed for enlisting petitioner No.2. By communication dated 22.11.2018, petitioner was informed that the request of the petitioner was turned down referring to the Government Resolution dated 20.05.2015. It is specifically stated in the communication that as per the policy of the Government reflected in the Government Resolution dated 20.05.2015, when one name of legal heir is entered in the

wait list, then there is no provision of effecting change in the name of nomination. Learned Counsel for the petitioner then submitted that as per policy prevalent in the year 2015, there was no provision to consideration of claim for compassionate appointment of married daughter.

3. Learned Counsel invited our attention to copy of the Government Resolution placed on record at Exh."G" dated 21.09.2017. Perusal of this Government Resolution dated 21.09.2017 shows that this resolution is a latest policy of the State Government and is in supersession to earlier Government Resolution. Perusal further shows that though certain formalities are kept unchanged, major change of considering of the married daughter and expecting the entitlement and referring to the entitlement of the married daughter for compassionate appointment, clause-4 of the resolution is worded. Though it was vehement submission of learned Counsel that in view of this changed policy, order dated 22.11.2018 is unsustainable.

4. We are unable to accept submission of learned Counsel for the petitioners for two reasons. Firstly, introduction of entitlement of married daughter is not waiving earlier rider of 2015 resolution. Clause-21 of the Government Resolution of 2017 reiterates the position of no change in nomination, once one of the member of the family is enlisted in the waiting list. As it is an admitted position that respondent No.4 is already enlisted in the waiting list, by compliance of the requisite formalities prevailing at the relevant time, such as submitting consent letter and heir-ship certificate, then merely because there is some dispute in the family members and one of the family members approaches the authority for changing nomination, that by itself cannot be a reason to make clause-21 of the Government Resolution of 2017 ineffective and redundant. Secondly, it is settled position of law that compassionate appointment is a solace being provided to distressed family to meet exigencies and particularly

unforeseen difficulties including financial constraints. But the compassionate appointment cannot be treated as a right on a post that too in perpetuity. If the submissions of learned Counsel are accepted, same would lead to treating solace as creating right in perpetuity and this would be clearly defeating the object of compassionate appointment. Thus, on both the counts mentioned above, we are of the opinion that the petition is thoroughly merit-less and deserves to be dismissed at the threshold.

5. Accordingly, the writ petition is dismissed.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]