

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
REVIEW APPLICATION NO.47 OF 2019
IN
WRIT PETITION NO.13131 OF 2018**

Zilla Prishad, Ahmednagar ..Applicant

VERSUS

Ajinkya S/o Sharad Vovekar and State..Respondents

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Mr. S. T. Shelke, Advocates for the Applicant.

Mr. C. R. Thorat, Senior Advocate for Respondents.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

Closed for Orders on : 30.04.2019.

Order Pronounced on : 07.06.2019.

FINAL ORDER (Per S. V. Gangapurwala, J.) :-

1. The applicant seeks review of the order dated 17.01.2019 passed by this Court in Writ Petition 13131 of 2018. This Court while allowing the writ petition had directed the present review applicant to place the writ petitioner in the seniority list of the persons to be appointed on compassionate ground considering his application to be complete in all respects on 28.06.2017.

2. Mr. Shelke, learned counsel for the review applicant submits that the committee had prepared the verification sheet on 04.07.2018 and it was observed that the documents at serial nos.18, 22, 24 and 26 are not submitted. Similarly, the 'P' Form and Annexure-B do not bear signature of

competent authority. The documents at serial nos.13 to 16 are not verified before the Executive Magistrate. The learned counsel relies on the circular dated 05.02.2010 and submits that the instructions are issued for preparation of the waiting list. It is specifically instructed that, unless and until all documents are supplied by the applicant, his name should not be included in the waiting list of the persons to be considered for appointment on compassionate ground.

3. Mr. Shelke, learned counsel further submits that pursuant to the said Government Resolution, the Divisional Commissioner, Nashik also issued letter dated 14.06.2018 directing to follow the Government instructions. The review applicant had given notice to the original writ petitioner on 30.03.2017 directing him to remove the deficiencies in the proposal. Even public notice was given in the newspaper. Objections were called, but the writ petitioner did not comply the objections. Again he was given a notice on 10.08.2018 for compliance. The writ petitioner made compliance on 20.08.2018 and accordingly his name was notified in the waiting list prepared thereafter in tune with Government instructions.

4. The learned counsel for the review applicant submits that all the aforesaid facts due to inadvertence could not be brought to the notice of the Hon'ble Court and as such, the order under

Review came to be passed. The learned counsel submits that Zilla Parishad found 188 applicants eligible out of total 308 proposals. As per available vacancies, 142 applicants were eligible and in respect of remaining 46 candidates, the vacancies were not available. The list was published on 01.07.2017 on the website of Zilla Parishad and the list of eligible candidates was published. There are as many as 54 candidates like the writ petitioner, who have not furnished all the documents and their proposals are treated to be incomplete. If the order under Review is maintained, then 54 candidates similarly situated as the petitioner would take legal recourse. The action of the present applicant is in tune with the Government instructions, as such, the order under Review is required to be reviewed.

5. Mr. Thorat, learned counsel for original writ petitioner supports the order and submits that the petitioner was held to be eligible. The petitioner was kept in the waiting list and he was at serial no.105 of the seniority list. The documents were also submitted.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. The circular dated 05.02.2010 relied by the present review applicant states that the name

of the candidates should be taken in the waiting list after receiving all the documents from the candidates. It is worthwhile to mention that the name of the petitioner was already taken in the waiting list prepared on 28.06.2017 and his name was at serial no.105. The copy of the seniority list is annexed with the original writ petition at Exhibit-E. The title of the seniority list is as under:

जिल्हा परिषद अहमदनगर
अनुकंपातत्वावर अर्ज केलेल्या अर्जदारापैकी दिनांक २८/०६/२०१७ रोजी च्या मुळ
कागदपत्र पडताळणीनंतर रिक्त पदाचे उपलब्धतेनुसार नियुक्तीकरिता
विचाराधीन पात्र असलेल्या अनुकंपाधारकाची यादी

8. Reading the said title of the seniority list, it is manifest that the committee considered the original documents and observed that the persons in the seniority list are eligible for being considered to be appointed on compassionate ground.

9. It is not the case that, the name of the petitioner was not taken in the seniority list earlier on account of non-submission of documents. The verified sheet dated 28.06.2017 prepared by the committee has remark that the petitioner is eligible and on the affidavit the signature of Executive Magistrate does not appear. Apart from that all the documents are complied with.

10. Be that as it may, original writ petitioner was also taken on seniority list of the

persons to be considered as eligible for appointment on compassionate ground from 28.06.2017.

11. Considering the above, now it would not be appropriate for the review petitioner to contend otherwise.

12. The circular dated 05.02.2010 relied by the review applicant no doubt states that, it is only after all the documents are submitted, the name of the persons should be taken in the seniority list. The same circular also states that, it is the duty of the Department to communicate the candidates various documents required.

13. As the name of the petitioner was already taken in the seniority list of the persons to be appointed on compassionate ground and the petitioner was considered as eligible candidate as per the verification sheet dated 28.06.2017, we had passed the order under review.

14. The scope of this Court in entertaining the review application is in narrow compass. The same cannot be treated as appeal in disguise. We had only directed that the original writ petitioner shall be placed in the seniority list of the persons to be appointed on compassionate ground considering his application to be complete in all respects on 28.06.2017 and directed the seniority

list to be corrected accordingly. We have not directed that the persons already appointed should be disturbed. Their appointment shall not be disturbed. The judgment under review shall not be construed a precedent. As far as other remaining 54 candidates are concerned, we have not examined their cases on merits. It is in the facts and circumstances of this case and the fact that we are in review jurisdiction, we are not entertaining the Review Application. Review Application as such is disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/June-19