

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

WRIT PETITION NO. 5610 OF 2018

Rameashwar Pralhad Panchal ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

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Ms Sunita G. Sonawane, Advocate for the petitioner

Mr Tambe, AGP for respondent/State

Mr D. M. Shinde, Advocate for respondent No. 3

Mr S. P. Kausalye, Advocate for respondent No. 2

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

DATE : 21ST JANUARY, 2019

ORAL ORDER:

1. Ms Sonawane, learned counsel for the petitioner submits that, the respondent No. 2 ought not to have appointed respondent No. 3. The father of the petitioner was working with respondent No. 2, while in service died. The petitioner is the elder son of the family whereas; respondent No. 3 is the younger one. The petitioner is jobless. The respondent No. 3 assaulted the petitioner and under threat got the consent of the petitioner. The same was also communicated to the respondent No. 2 by giving an application, however, the same is not considered.

2. Mr Shinde, the learned counsel for respondent No. 3 submits that, the consent was never under threat. The petitioner had not given any application for appointment on compassionate ground. Respondent No. 3 is looking after all the members of the family. No person has any objection except the petitioner. He has been already issued with the appointment order on or about 20.04.2018.

3. The petitioner and respondent No. 3 are real brothers. As per the scheme for appointment on compassionate ground, one member of the family can be appointed. It appears that the consent was given by the petitioner for appointment of respondent No. 3. Now it is submitted that, the said consent was under force and coercion. The same is a disputed question of fact. Evidence will have to be led as to the manner in which the consent given. It will not be possible to enter into the said disputed question of fact in the writ jurisdiction. The petitioner, if so advised, may take appropriate steps in that regard.

4. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE