

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6645 OF 2017

Mr. Jivan Bhimrao Gaikwad,	]
Aged 33 years, Occu: Labourer,	]
R/o: At Post Pimplad, Tal: Chandwad,	]
Dist: Nashik.	]..Petitioner

Versus

1] The State of Maharashtra,	]
at the instance of Secretary	]
to the Govt. of Maharashtra,	]
Deptt. Of Public Works.	]
2] The Collector,	]
District: Nashik.	]
3] The Executive Engineer,	]
Public Work Department,	]
Nashik Division	]
4] The Asst. Engineer (Gr.I),	]
Sub Division of Public Work Department,	]
Chandwad, Tal: Chandwad,	]
Dist: Nashik	]..Respondents

Mr. Popat R. Rathod, Advocate for the Petitioner.
Mr. P. G. Sawant, AGP for Respondent Nos.1 to 4.

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ.
DATE : 4th MARCH, 2019**

ORAL JUDGMENT (B. R. Gavai, J.)

1] Rule. Rule made returnable forthwith. Heard finally by

consent of the parties.

2] The Petition arises out of the peculiar facts. The father of the Petitioner was in service as class four employee on the establishment of Respondent No.4. The father of the Petitioner expired on 11th August 2005. As such, brother of the Petitioner, namely Akash had accordingly made an application for appointment on compassionate ground. After the completion of formalities, the Petitioner's brother was issued an appointment on compassionate ground on 12th January 2015. The Petitioner's brother Akash, however, in the meantime had accepted ascetic life and he, therefore, gave consent letter for appointing the Petitioner in place of himself as legal heir of the deceased father. However, the Petitioner has also made an application for appointment on compassionate ground. The said application of the Petitioner has not been considered by the Respondents. Hence, the present Petition.

4] It is the contention on behalf of the Respondent – State that the relevant provisions only permit the legal heirs of the person on the waiting list to be considered for appointment, if he dies

during the period when he was on waiting list. Here though the Petitioner's brother whose name was on the waiting list has not died, but has taken ascetic life. The purpose of granting appointment on compassionate ground is to help family to come out of difficulties, which the family would require to face after the death of bread earner of the family. Here, undisputedly, Petitioner's brother Akash had initially made an application for appointment on compassionate ground is no more interested in getting the job, since he has taken ascetic life.

5] We find that in the peculiar facts and circumstances of the case, the Petition deserves to be allowed. The Respondents are directed to appoint the Petitioner on compassionate ground in place of the Petitioner's brother Akash. The same shall be done within a period of two weeks from the date of uploading of the order.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]