

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

WRIT PETITION NO. 247 OF 2019

**TUSHAR RAMESH JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. D. R. Irale Patil
AGP for Respondents No. 1 to 3 : Mr. S. B. Narwade
Advocate for Respondent No. 4 : Mr. P. P. More
h/f. Mr. N. U. Yadav

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**CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE: 14th JANUARY, 2020

PER COURT:

1. Mr. Irale Patil learned counsel for the petitioner submits that the father of the petitioner died on 04.08.2017 while in service. The mother of the petitioner died on 08.10.2001. The petitioner is seeking appointment on compassionate ground. The name of the petitioner was also included in the wait list. All of a sudden the same is cancelled on the ground that the father of the petitioner had third child from the second marriage.

2. According to the learned counsel, under Rule 6 of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 the relaxation can be given by the Government under deserving circumstances. The financial position of the petitioner is not good. The petitioner is unemployed. It is on account of second marriage the third child was born to the father of the petitioner. The learned counsel submits that the circumstances exist to grant relaxation to the petitioner. In fact the Zilla Parishad ought to move the proposal to the State Government for relaxation as contemplated under Clause 6 of the Government Resolution dated 28.03.2005.

3. Respondent no. 4 has filed *affidavit in reply* thereby denying the claim of the petitioner.

4. The relaxation as is referred to cannot be in a routine manner. The petitioner is claiming the compassionate appointment on account of death of his father. The father had third child born after 2001. The family of the father of the petitioner

cannot come within the ambit of small family as per the Rules referred to above. The Government Resolution dated 08.12.2017 relied by the petitioner granting such relaxation to one Ashok Nanasaheb Kadus may not squarely apply. In that case it was considered that the person had given one son in adoption in the year 2010 and that person was also working as a teacher since beginning i.e. prior to the notification of small family.

5. In light of the above, no relief can be granted to the petitioner. The petitioner may take such other steps as may be permissible in law.

6. Writ Petition accordingly stands disposed of.
No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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