

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

WRIT PETITION NO. 1818 OF 2019

**SHITALNATH ZUMBARLAL SONPETHEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Pawar Ajay D.
AGP for Respondents No. 1 & 2 : Mr. S. B. Narwade

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 23rd JANUARY, 2020

PER COURT:

1. Mr. Pawar, learned counsel for the petitioner submits that the father of the petitioner while working as Assistant Teacher with respondent no. 4 died on 19.06.2017. Immediately, application was given to appoint the present petitioner on compassionate ground. The management did not consider the application of the petitioner. The Education Officer under letter dated 26.04.2018 directed the institution to consider the application of the petitioner for appointment on compassionate ground. Still the management did not pay any heed towards it. The learned counsel

submits that the petitioner has necessary qualification to be appointed as Junior Clerk and the vacancy exist.

2. The learned counsel for the institution submits that there is no vacancy available with the respondent institution for Class III or Class IV post.

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

4. The Government Resolution dated 21.12.2002 provides that, if, vacancy does not exist with the parent institution, then the institution would forward the proposal to the Education Officer. The Education Officer shall place the petitioner in the wait list of the persons to be appointed on compassionate ground and as and when the vacancy arises the name can be forwarded to the institution.

5. Considering the above, we pass the following order.

6. In case the vacancy arises with the respondent institution of Class III or Class IV post and if the petitioner is qualified to be appointed on the said post, respondents no. 3 and 4 shall appoint the petitioner on compassionate ground on the vacant post. It is clarified that the condition of ban on recruitment would not apply to compassionate appointments.

7. In case the vacancy does not exist, respondents no. 3 and 4 shall forward proposal to the Education Officer of the petitioner. The Education Officer shall maintain the seniority list of the persons to be appointed on compassionate ground, place the petitioner in the said list and shall direct to appoint / absorb the petitioner on compassionate ground in the institution as per its turn.

8. With these observations, writ petition is disposed of. No costs.