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

WRIT PETITION NO. 10089 OF 2014

Ellakani Muthuraman Varadraj
Through C.A. Selvaraj Thangavel & Anr. ... Petitioners

V/s.

Kalyan Dombivali Municipal Corporation ... Respondents

Mr. Kiran Joshi for the Petitioners

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 5 FEBRUARY 2020.

P.C. :-

By this Petition the Petitioners are questioning the order passed by the Respondent – Kalyan Dombivali Municipal Corporation dated 25 April 2013 wherein the claim of the Petitioners for appointment on compassionate basis was rejected.

2. There are two Petitioners who have filed this Petition. The Petitioner No.1 was of age 45 when the Petition was filed. The Petitioner No.2 had claimed compassionate appointment since according to her, her father expired while in service of the Respondent – Corporation on 21 April 2008. When this claim was

made, an objection was raised by Respondent No.4, the other heir, stating that the Petitioners are not entitled and their relations with the deceased was challenged. A Petition No.1123 of 2012 was filed by the Petitioner wherein the Respondent No.4 intervened and this Court disposed of the Petition by order dated 3 October 2012 directing the Corporation to examine the claim of both the claimants. The Court clarified that it is not an expression of any opinion that the Corporation is obliged to appoint the Petitioner No.2 on compassionate basis contrary to the regulations regarding appointment as may be applicable. By a reasoned order, the claim of the Petitioners was rejected. This is under challenge.

3. The learned Counsel for the Petitioners submits that the Respondent No.4 has expired and therefore, the Petitioner No.2 should be now appointed on compassionate basis. It is submitted that though it is correct that the Petitioners were not staying with the deceased, there were reasons that the deceased was staying with some other lady in an illicit relationship.

4. We have considered these contentions. As observed by this Court earlier, the appointment will have to be in accordance with the Rules. It cannot be on mere sympathy. Compassionate appointments stand on a different footing than a regular recruitment. As per the Government Resolution relied upon by the authorities, there is a requirement of production of heir-ship certificate and proof

of staying with the deceased. There is also a fundamental concept underlying compassionate appointment that of being affected by sudden calamity. It is an admitted fact that the Petitioners have no proof of residence with the deceased whatever may be the reason for the same. The heir-ship certificate was also in dispute and considering this fact the claim has been rejected. It is not possible for us to at this stage issue a writ directing the Municipal Corporation to take the Petitioner No.2 on compassionate basis also merely because the Respondent No.4 is no longer survives.

5. The Writ Petition is accordingly rejected.

M.S. KARNIK, J.

NITIN JAMDAR, J.

**Jyoti P.
Pawar**

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by Jyoti P. Pawar
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