

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

62 WRIT PETITION NO.4993 OF 2021

MOHIDDIN INAMDAR SHEIKH
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

...
Advocate for Petitioner : Mr. R.P. Bhumkar
AGP for Respondent 1/ State: Mr. P.G. Borade
Advocate for Respondents 2 to 4 : Mr. S.B. Parnere
...

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 05/07/2021.

PER COURT :

. The learned advocate for the petitioner submits that the petitioner has retired from service and is receiving the pension. He has nominated his wife namely Shaikh Sagira as a nominee to receive the family pension. Said Shaikh Sagira died in the year 2013. The petitioner thereafter married with one Shaikh Reshma on 18.10.2015. The application filed by the petitioner to accept Shaikh Reshma as his nominee is not entertained by the respondents.

2. The learned advocate for respondent Nos. 2 to 4 submits that succession certificate has not been produced by the petitioner. There is no specific provisions in the Rules for

entering the name of nominee after the retirement. It is further submitted by the learned counsel for respondent Nos. 2 to 4 that under Rule 114, the provision exists for production of succession certificate to claim the pension.

3. We have considered the submissions canvassed by the learned counsel for the parties. The nominee can only be a person from the family, if the Government employee has a family. If the Government employee possesses a family, then the nominee cannot be a person other than the family member.

4. In the present case, it appears that the petitioner has nominated his first wife Shaikh Sagira as nominee. Shaikh Sagira died in the year 2013 and the petitioner claims to have married with Shaikh Reshma on 18.10.2015. The petitioner is relying upon the marriage certificate to substantiate his contention.

5. After the death of Shaikh Sagira, naturally the petitioner is entitled to marry and his wife is entitled for being placed as a nominee. The respondents will have to get the proof about the death of Shaikh Sagira and for that purpose, they may insist upon the death certificate of Shaikh Sagira issued by the

competent authority. If the petitioner produces all such papers/documents before respondent Nos. 2 to 4, then the respondent Nos. 2 to 4 shall not reject the application of the petitioner for change of nominee only on the ground that the petitioner has retired from service. The application of the petitioner shall be decided on its own merits after satisfying that the petitioner married with Shaikh Reshma after the death of first wife. The said application be decided preferably within four months. While considering the application, the impugned order would not be an impediment.

6. Writ petition is disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

ssc/