

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

**902 WRIT PETITION NO.1460 OF 2018**

Vasant s/o.Sukhdev Hatagale,  
Age: 34 years, Occu. Labour,  
R/o. Sanghmitranagar,  
Opposite Agriculture Office,  
Georai, Tq. Georai, Dist.Beed.

**.. PETITIONER**

**VERSUS**

1. The State of Maharashtra  
Through : Secretary,  
Urban Development Department,  
Mantralaya, Mumbai.
2. The Commissioner & Director  
Municipal Administration,  
Maharashtra State, Mumbai.
3. The Collector,  
Collector Office Beed.
4. The Nagar Parishad Georai,  
Through : Chief Officer, Georai,  
Tq. Georai, Dist. Beed.

**.. RESPONDENTS**

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Mr.G.J.Karne, Advocate for the petitioner.  
Mr.S.R.Yadav-Lonikar, AGP for respondent Nos.1 to 3.  
Mr.A.M.Gaikwad, Advocate for respondent No.4.

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**CORAM : RAVINDRA V. GHUGE &  
S. G. MEHARE, JJ.**

**DATED : 21.09.2021**

PER COURT :

1. On 31.08.2021, we had passed the following order:-

1. We have heard this matter at length. We have considered the extensive submissions of the learned advocate for the petitioner. He has only one single argument to advance and i.e. he belongs to “Matang” caste and according to him, this is covered by the Lad Page Committee recommendations applicable to the persons who belong to the reserved category i.e. Walmiki, Mehatar, etc. castes.

2. Shri Gaikwad, the learned advocate, has pointed out the Government Resolution dated 23.03.2006 in which, the Government of Maharashtra has specifically observed in clause 11 (6) and clause 18 that those employees, who are otherwise eligible for the Lad Page Committee recommendation benefits (“Vashila Paddhat / Shifaras”), would be disentitled only if the parent of such candidate was appointed on 10.03.1993 or prior thereto as “Safai Kamgar” on daily wages and who has been regularized in employment as a special case by creating a supernumerary post. There is no dispute that the father of the petitioner was an employee, who was appointed on 01.04.1991 as a special case and was regularized on 31.01.2002 by creating a supernumerary post. Consequentially, the case of the petitioner would be covered by clauses 11 and 18 of the

Government Resolution dated 23.03.2006, which would operate as a disqualification clause.

3. The learned advocate for the petitioner has cited before us certain orders passed by the coordinate Bench of this Court, which are as follows :-

(a) Order dated 01.08.2016 passed in Writ Petition No.1822/2015 filed by Sakhubai wd/ o Gorakh Agale versus the State of Maharashtra and others.

This judgment is squarely on the ground that the widow has approached this Court as her husband died in harness and was, therefore, eligible for compassionate appointment.

(b) Order dated 20.09.2019 passed in Writ Petition No.7109/2018 filed by Shaikh Yusuf Shaikh Yunus versus the State of Maharashtra and others.

In this case, the issue of persons belonging to Walmiki, Mehatar, Bhangi, etc. categories was considered in the backdrop of the parents working as "Safai Kamgar". The issue of parents having been regularized as a one time arrangement by creating supernumerary posts, was not before this Court.

Both the above judgments are, therefore, not applicable to the case of the petitioner.

4. We were to conclude this order by

dismissing this petition. However, Shri Karne, learned advocate for the petitioner, submits that he may be granted some time to point out judicial pronouncement, which rescues his case from the Government Resolution dated 23.03.2006.

5. When we called upon Shri Karne to suggest how much time he wants for research, he has put forth a very unreasonable request by saying that he wants six weeks time. We are rejecting this request and we are posting this matter on 08.09.2021 as “part-heard” for further submissions.

2. In view of the liberty granted by us to Shri Karne to research and cite the law which would apply to his case, he has pointed out the following factors :

- A. A lady by name Sakhubai Gorakh Agale was the wife of Gorakh Namdev Agale who was also appointed as Safai Kamgar prior to 10.03.1993.
- B. Her application for appointment in place of her husband was rejected by the Chief Officer, Municipal Council, Khultabad, vide communication 18.01.2014.
- C. She approached this Court in Writ Petition No.1822 of 2015 which was decided by this Court

on 01.08.2016 thereby allowing her petition and granting her appointment in place of her husband.

- D. The case of the petitioner is identical to Sakhubai.
- E. The Government Resolution dated 10.11.2015 has led to the quashing of all earlier Government Resolutions / Circulars / Notifications in relation to the Lad Page Committee recommendations and the 'Vashila Paddhat' has been continued in the State of Maharashtra to consider candidates from the reserved categories like Walmiki, Mehatar, Bhangi for appointment as Safai Kamgar in place of a parent who was working as a Safai Kamgar thereby continuing the Vashila Paddhat [Special Recommendation].

3. The learned Advocate representing respondent no.4 refers to the Government Resolution dated 10.11.2015 and Government Resolution dated 23.03.2006 and submits as under :

- A. The husband of Sakhubai had died in employment.
- B. Sakhubai had applied for compassionate appointment on 18.03.2006 before Government Resolution dated 23.03.2006 was introduced.

C. By the order of this Court dated 01.08.2016, Sakhubai was granted compassionate appointment, and not under the Lad Page Committee recommendations.

D. When Sakhubai applied for compassionate appointment, there was no scheme at the relevant time for granting compassionate appointment. Such scheme was later on introduced on 11<sup>th</sup> March, 2016 and this Court relied on the said scheme and delivered the order on 01.08.2016 appointing Sakhubai on compassionate ground.

4. Having considered the fresh submissions canvassed as above, we revert back to the Government Resolution dated 23.03.2006, which was introduced by the Government to deal with such Safai Kamgars who were appointed on 10.03.1993 or prior thereto on daily wages, in the absence of any posts created within any Municipality. By virtue of clause 11 (6) and 18 of this Government Resolution, the Government resolved to regularize the services of such Safai Kamgar / Daily wagers as a 'one time Special Case'. Without creation of posts, regularization was granted with the condition that after the said supernumerary post falls vacant due to retirement or death, the post would be automatically

abolished. The father of the present petitioner was regularized by such one time arrangement and it was specifically mentioned in his regularization order that he would be absorbed on a supernumerary post which would fall vacant after his superannuation and no member of the family would be entitled for recruitment in his place as per the Vashila Paddhat.

5. The record reveals that the father of the petitioner retired on 28.02.2014 from a supernumerary post which stood abolished. The petitioner applied on 03.12.2014 for being appointed in place of his father by following the Vashila Paddhat. His application was rejected on 26.12.2014.

6. We therefore find that the case of Sakhubai was based on different facts. She was rendered a widow at the age of 29 and as there was a scheme for compassionate appointment dated 11.03.2016, this Court specifically recorded in paragraph 2 that she had applied for a compassionate appointment. It is obvious that she had not invoked the Lad Page Committee recommendations for seeking an appointment in place of her deceased husband.

7. The petitioner has laid a heavy stress on the Government Resolution dated 10.11.2015. We find that the State of Maharashtra had formed a Committee under the Chairmanship of Retired Justice Lad prior to 1972 to create job

opportunities for particular backward class daily wagers who were working as Safai Kamgars / Safai Majdoors. Thereafter, the V.S. Page Committee was constituted and the recommendations of these two Committees is known as the 'Lad Page Committee' recommendations. Since these recommendations were with regard to eradication of untouchability and to ensure that persons belonging to such categories who worked as Safai Majdoors or on drainage lines / sewerage lines were granted employment and job security, the recommendations were popularly known as Vashila Paddhat.

8. The Government Resolution dated 10.11.2015 was an outcome of the issue raised before this Court at the Nagpur Bench in Writ Petition No.6155 of 2014 wherein the petitioners had questioned the continuance of the Vashila Paddhat for more than 40 years and sought an order from the Court under its extra ordinary jurisdiction under Article 226 of the Constitution for abolishing such system. The Nagpur Bench directed the State Government to take a policy decision within six (6) weeks and consequentially, the Government Resolution dated 10.11.2015 was introduced for cancelling / nullifying all earlier Government Resolutions / Notifications and for continuing the Vashila Paddhat.

9. Clause 2 (uu) i.e. 2 (ऊ) of the said Government Resolution dated 10.11.2015 indicates that the staffing pattern

would not apply to the Lad Page Committee recommendations since the posts occupied by any such Safai Kamgar can be occupied by inheritance. *Per contra*, when the petitioner applied to be appointed in place of his father under the Lad Page Committee recommendations, the Government Resolution dated 23.03.2006 governed his case and disentitled him in view of clause 11 (6) and clause 18, since the post occupied by his father stood abolished the moment he superannuated. The order of regularization issued in favour of the father of the petitioner would indicate that he was regularized by the State of Maharashtra along with hundreds of such persons appointed on 10.03.1993 or prior thereto as Safai Kamgars on the condition that these would be supernumerary posts and would not be treated as permanent posts. The application of the petitioner was rejected on 26.12.2014 when the Government Resolution dated 23.03.2006 with the disqualification clause, was applicable to him.

10. In view of the above, this Petition fails and the same is therefore dismissed.

11. No order as to costs.

**[S. G. MEHARE]**  
**JUDGE**

**[RAVINDRA V. GHUGE]**  
**JUDGE**