

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

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WRIT PETITION NO. 5480/2019

* Reshma Parveen Gulam Gous Khan
Aged about 39 years, oiccu Serviuce
R/o Ward No.1 Near Bus Stop
Ashti Dist.Wardha.

..PETITIONER

v e r s u s

1. The State of Maharashtra
Through its Secretary
School Education and Sports Department
Mantralaya, Mumbai-32.
2. The Zilla parishad Wardha
Through its Chief Executive Officer, Wardha.
- 3) The Education Officer (Secondary)
Zilla Parishad, Wardha.
- 4) Rashtriya Education and cultural Society
Ashti Through its President /Secretary
Ashti Dist. Wardha.
- 5) Jawahar Urdu High School and
Junior College of Arts,
Ashti, Dist. Wardha
Through its Headmaster.

.. RESPONDENTS

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Mr. Anup D.Dangore, Advocate for petitioner
Mr.A.A. Madiwale, AGP for respondent nos.1 and 3
Respondents 2,4 and 5 served.
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CORAM: SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ
DATED : 23rd December, 2021.

ORAL JUDGMENT: (PER SUNIL B.SHUKRE, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.

2. The petitioner has been appointed to the post of Peon by respondent nos.4 and 5 on compassionate ground after the death of her husband while in service, who was a Peon with respondent nos. 4 and 5. The appointment order was issued by respondent nos. 4 and 5 to the petitioner on 26.11.2014 and the petitioner joined her duties on 02.12.2014. A proposal was sent to the respondent no.3 seeking approval to the appointment of the petitioner but, by the impugned order dated 03.04.2019, approval was refused for the time being, on the ground that there was a ban on recruitment in force, as per the Government Resolution (GR) dated 12.02.2015.

3. Learned counsel for the petitioner submits that the issue involved in this petition is squarely covered by the view taken by coordinate Bench at Mumbai, in its judgment dated 11.12.2018 in Writ Petition No. 7507/2016 wherein the Division Bench has said that once an appointment is made prior to the ban, the refusal to grant approval to such appointment cannot be sustained.

4. Learned counsel for the petitioner further submits that in another matter involving identical issue, same view has been taken by another Division Bench of this Court presided over by the Hon'ble the Chief Justice in Writ Petition No.2118/2020 and the relevant order passed is of the date 02.11.2020. Copy of the same is produced before us by the learned counsel for the petitioner and it is taken on record and

marked "A" for identification.

5. In the instant case also, the petitioner has been appointed well before the ban on recruitment came in force as per the GR dated 12.02.2015 and, therefore, following the view taken by another Bench of this Court at Mumbai in Writ Petition No.7507/2016, as per the judgment dated 11.12.2018, we are of the view that this petition would have to be partly allowed by quashing the impugned order.

6. The petition is partly allowed. The impugned order dated 03.04.2019 is hereby quashed and set aside. The Respondent no.3 is directed to consider the proposal of the respondent nos.4 and 5 seeking approval to the compassionate appointment of the petitioner and decide the same in accordance with law, keeping in view the observations made herein-above, at the earliest and, in any case, within a period of four weeks from the date of the order.

Rule accordingly. No costs.

JUDGE

JUDGE

sahare