

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

913 WRIT PETITION NO.4213 OF 2022

**SHAIKH SADIK SHAIKH CHOTU
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr.A.S. Kulkarni
AGP for Respondents-State : Mr.P.K.Lakhotiya
...

**CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.**

DATE : 15.06.2022.

PER COURT :

1. The petitioner has putforth prayer Clauses B, C and D as
under :

B) By issuing writ of mandamus or any other appropriate writ, order, direction or writ of certiorari like nature and to quash and set aside the communication dated 11.03.2020 issued by respondent No. 3 and direct the respondent No. 3 to issue compassionate appointment order in favour of the petitioner.

C) By issuing writ of certiorari like nature and to quash and set aside the communication dated 11.03.2020 issued by respondent No. 3 and direct the respondents No. 3 to issue compassionate appointment order in favour of petitioner within 2 months from date of order passed by this Hon'ble High Court.

D) By issuing writ of mandamus or any other appropriate writ order, direction or writ of mandamus like nature and to direct the respondent No. 3 to issue appointment order in favour of the petitioner as per the communication dated 29.02.2002 and order

dated 08.01.2020 issued by the respondent No. 2 for appointment on compassionate ground.”

2. It is canvassed that the employee who was in the service of respondent No. 3, Nagar Parishad Osmanabad, i.e. Shaikh Chottu has passed away on 30.06.1999. The petitioner places reliance upon the agreement (Kararnama) dated 18.03.1989 between himself and Shaikh Chottu by which he agreed to be adopted by Shaikh Chottu. He was 11 years of age when he purportedly entered into such contract on a 10/- rupees stamp paper.

3. The petitioner approached the Civil Court by preferring a Civil Suit bearing No. 149 of 2000 seeking declaration that he should be treated as an adopted son of the defendant Smt. Khalida Begum widow of Shaikh Chottu. This suit was filed on 17.06.2000 and was settled within one month in the Lok Adalat on 23.07.2000, clearly indicating that both the parties have approached the trial Court and compromised the matter within one month, so as to obtain the seal of the Court on the purported adoption of the petitioner by the widow of Shaikh Chottu.

4. The Government Resolution dated 01st August, 2006, more particularly Clause 50 (D) indicates that the child adopted prior to the death of the bread earner would be eligible for compassionate appointment.

5. The petitioner, Shaikh Chottu and his widow belonged to the Mohammedan community and the Mohammedan law would not permit adoption.

6. Even if, the compromise order obtained from the Civil Court has to be considered, the adoption, assuming that it has a legal foundation, would be effected from 23.07.2000, which is after 13 months of the demise of Shaikh Chottu.

7. Today the petitioner is 42 years of age. His material status is not disclosed. He seeks compassionate appointment as a peon after 23 years of the demise of Shaikh Chottu.

8. In view of the above, we do not think that this petition deserves to be entertained and the same is therefore dismissed.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE