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

11 WRIT PETITION NO.4749 OF 2022

**MANGLABAI SURYAKANT SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr D. K. Thote, Advocate for petitioner;

Mr S. P. Tiwari, A.G.P. for respondents/State

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

DATE : 20th June, 2022

PER COURT:

1. By this petition, the petitioner, who is a 42 years old lady and whose two children have attained the age of majority, has put forth prayer clauses (A) and (B), which read as under :-

“A) For the writ of certiorari, order direction in the nature of certiorari or any other appropriate writ or direction and direct the respondents to appoint the present petitioner on compassionate ground.

B) Pending hearing and final disposal of the present writ petition the respondents be directed by an appropriate order, to appoint the present petitioner on compassionate ground.”

2. The petitioner's father-in-law was the bread-earner, who was employed with the Irrigation Department. He died on

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21/04/2008 while in service. The petitioner's husband passed away on 08/06/2008. The two children of the petitioner were aged 6 years and 4 years, respectively, in June 2008. Both have now attained adulthood by crossing the age of 18 years. A claim for compassionate appointment was filed on 11/09/2009, which was beyond limitation of one year from the date of the death of the bread earner. The first representation made by the petitioner was on 11/08/2010. A further representation was made after seven years, on 05/07/2017. Yet another representation was made on 30/10/2019 and the last representation was made on 14/12/2021.

3. Recently, the Hon'ble Apex Court has delivered an order on 28/02/2022, in Special Leave Petition (Civ.) No.3008/2022, filed by **Surjeet Singh Sahni Vs. State of Uttar Pradesh and others**, in which it has been observed as under :-

“4. At the outset, it is required to be noted that by way of writ petition under Article 226 of the Constitution of India as such the petitioner prayed for a specific performance of Clause 12 of the Sale Deed dated 19.09.2001. For the first time, the petitioner made a representation for allotment of 10% plot as per Clause 12 of the Sale Deed dated 19.09.2001 in the year 2010, i.e., after a period of 10 years from the date of execution of the Sale Deed. Therefore, as such if the

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suit would have been filed for specific performance, the same would have been barred by limitation. Despite the above, the petitioner filed a writ petition before the High Court and as observed hereinabove prayed for specific performance of Clause 12 of the Sale Deed dated 19.09.2001 being Writ Petition No.37443 of 2011, which was also filed after a period of 11 years from the date of execution of the Sale Deed. Therefore, as such when the earlier writ petition was filed in the year 2011 which was also barred by delay and laches, the High Court ought not to have entertained the same. Instead, the High Court entertained the said writ petition and directed the NOIDA to decide the representation of the petitioner, which as such was made after a period of 10 years, expeditiously and it gave the fresh blood to the litigation, which otherwise was barred by delay and laches. The High Court by passing the order dated 07.04.2017 as such did not realise and/or appreciated that the writ petition itself was required to be dismissed on the ground of delay and laches as the same was filed after a period of 11 years from the date of execution of the Sale Deed under which the right was claimed. We have come across number of such orders passed by the High Courts directing the authorities to decide the representation though the representations are made belatedly and thereafter when a decision is taken on such representation, thereafter it can be said on behalf of the petitioner that the fresh cause of action has arisen on rejection of the representation. Therefore, when such orders are passed by the High Courts either relegating the petitioner to make a representation and/or directing the appropriate authority to decide the representation, the High Courts have to consider whether the writ petition is filed belatedly and/or the same is barred by laches and/or not, so that in future the person who has approached belatedly may not contend that the fresh

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cause of action has arisen on rejection of the representation. Even in a case where earlier representation is rejected, the High Court shall decide the matter on merits.

5. As observed by this Court in catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within reasonable time. If it is found that the writ petitioner is guilty of delay and latches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and latches. Such order shall not give an opportunity to the petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.”
(Emphasis supplied).

4. It does not call for any debate that compassionate appointment is neither a right of a party, nor can be granted by way of charity. It is aimed at providing immediate succour and relief to the bereaved family, which finds itself without financial support, on account of the loss of employment, owing to the death of the sole bread earner.

5. In the case in hand, the petitioner is of 42 years old married lady. It is 14 years post the death of the bread earner. Granting

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compassionate appointment after 14 years, would practically defeat the purpose, for which compassionate appointment claims have been introduced in various services.

6. Considering the above and the pronouncement of the Hon'ble Apex Court in Surjeet Singh Sahni (supra), we find ourselves handicapped in exercising our extraordinary writ jurisdiction under Article 226 of the Constitution of India.

7. As such, this petition is devoid of merits and stands dismissed.

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)

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