

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

934 WRIT PETITION NO. 14826 OF 2021

Smt. Satyakala Babu Akate,
Age : 44 years, Occ. Nil,
R/o : Shivkrupa, Vivekanand Nagar,
At Post Ambajogai, Tq. Ambajogai,
District Beed.

... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary
Water Supply & Sanitation Department,
Mantralaya, Mumbai -32.
2. The District Collector,
Beed, District Beed
3. The Superintending Engineer,
Maharashtra Jeevan Pradhikaran
Mandal, Aurangabad
Opp. Milind College, Chawani,
Aurangabad – 431 002.
4. The Executive Engineer
Maharashtra Jeevan Pradhikaran
Construction Department,
Near Water Tank, Morewadi Chowk,
Ambajogai, Taluka Ambajogai,
District Beed.
5. The Chief Administrative Officer,
Maharashtra Jeevan Pradhikaran
CIDCO Bhavan, 2nd Floor,
South Wing, Belapur,
Navi Mumbai.

.... RESPONDENTS

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Mr. Shivkumar N. Lavekar, Advocate for Petitioner

Mr. P. S. Patil, Additional GP for Respondent Nos 1 and 2

Mr. Vinod P. Patil, Advocate for Respondent Nos. 4 & 5

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**CORAM : SMT. SADHANA S. JADHAV &
S.G.DIGE, JJ.**

DATE : 15.03.2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties at admission stage.

2. The learned counsel for petitioner submits that this is a case seeking compassionate appointment. The petitioner is widow of Babu Nivruti Akate, who was employed with respondent Nos. 3 to 5. She had applied for compassionate appointment. Her name was shown in the waiting list. At the time, when application was filed by the petitioner, her son was minor i.e. on 26-11-2004.

3. The petitioner has expressed her inability to take post and therefore she prayed to the authorities that her claim be substituted and that her son be appointed on compassionate ground instead of her. The said application seeking substitute compassionate appointment was rejected on the ground that substitute compassionate appointment is not permissible as per Clause 1(c) of the Government

Resolution dated 28-05-2015. Hence, the petitioner was constrained to approach this Court.

4. The stringent provisions of the said Government Resolution have been held to be not good ground for rejection of the claim on compassionate appointment. This Court in case of ***Dnyaneshwar S/o Ramkishan Musane Versus The State of Maharashtra and others (Writ Petition No. 6267 of 2018, dated 11-03-2020)***, has observed as follows :-

“5. After hearing learned Advocates for the parties and going through the Government Resolution dated 20-05-2015, we are of the view that the prohibition imposed by the Government Resolution dated 20-05-2015 that name of any legal representative of deceased employee would not be substituted by any other legal representative seeking appointment on compassionate ground, is arbitrary, irrational and unreasonable and violates the fundamental rights guaranteed by Article 14 of the Constitution of India. As per the policy of the State Government, one legal representative of deceased employee is entitled to be considered for appointment on compassionate ground. The prohibition imposed by the Government Resolution dated

20-05-2015 that if one legal representative of deceased employee stakes claim for appointment on compassionate ground, then name of another legal representative of that deceased employee cannot be substituted in the list in place of the other legal representative who had submitted his/her application earlier, does not further the object of the policy of the State Government regarding appointments on compassionate grounds. On the contrary, such prohibition frustrates the object for which the policy to give appointments on compassionate grounds is formulated. It is not the case of respondent No. 2 that petitioner's mother was given appointment on compassionate ground and then she resigned and proposed that petitioner should be given appointment. The name of petitioner's mother was in waiting list when she gave up her claim and proposed that the petitioner should be considered for appointment on compassionate ground.

6. In this view of the matter, we find that the restriction imposed by the Government Resolution dated 20-05-2015 that name of legal representative of deceased employee

cannot be considered in place of another legal representative of that deceased employee whose name happens to be in the waiting list for giving appointment on compassionate ground, is unjustified. Hence, we pass the following order.”

5. In view of the same, petition deserves to be allowed in terms of prayer clauses ‘B’ and ‘C’. Accordingly, the same is allowed. Rule is made absolute in above terms.

[S.G.DIGE, J.]

[SMT. SADHANA S. JADHAV, J.]

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