

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

**WRIT PETITION NO. 6523 OF 2019**

Laxman S/o Shivaji Giri,  
Age : 30 Years, Occu. : Labour,  
R/o At Post Panewadi,  
Tq. Ghansawangi,  
District: Jalna – 431203.

.. Petitioner

**Versus**

1. The State of Maharashtra,  
through its Secretary  
Primary School Education  
and Sports Department  
Mantralaya, Mumbai.
2. The Education Officer (Secondary),  
Zilla Parishad, Jalna.
3. Mahatma Phule Primary and  
Secondary School,  
Through its Principal,  
Panewadi, Tq. Ghansawangi,  
Dist. Jalna – 431 203.

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Respondents

Shri Nikhil D. Jaiswal, Advocate for the Petitioner.  
Smt. R. P. Gour, A.G.P. for the Respondent Nos. 1 and 2.  
Shri Rakesh C. Bramhankar, Advocate for the Respondent No.  
3.

**CORAM : MANGESH S. PATIL AND  
SANDEEP V. MARNE, JJ.**

**DATE : 20.09.2022.**

**JUDGMENT (Per Sandeep V. Marne, J.) :-**

. Rule. Rule made returnable forthwith. With the

consent of parties taken up for final hearing.

2. The petitioner challenges rejection of proposal for grant of approval to his compassionate appointment on the ground that staffing pattern for non teaching staff is not sanctioned from the year 2014-2015 onwards. Another reason cited is ban imposed by the Government Resolution dated 06.02.2004.

3. However, perusal of the Government Resolution dated 06.02.2004 would indicate that the posts of clerk and Class IV employees were excluded from the ban. Furthermore, specific direction was issued to give preference to compassionate appointments while filling up vacant posts. Therefore, the reasons cited in the impugned communication dated 13.03.2019 appear to be clearly erroneous.

4. The petitioner has also relied upon the judgment of this Court in the case of **Smt. Yogita W/o Shivsing Nikam Vs. The State of Maharashtra and others in Writ Petition No. 4219 of 2018** decided on 11.08.2021, wherein this Court has repelled the objection of the State Government about application of ban on compassionate appointments.

5. Consequently, we set aside the communication dated 11.03.2019 and direct the Education Officer (Secondary), Zilla Parishad, Jalna to reconsider the case of the petitioner for compassionate appointment and not to reject the same on the grounds mentioned in the impugned communication. The writ

petition is allowed. Rule is made absolute in above terms.  
There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]

*bsb/Sept. 22*