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

914 WRIT PETITION NO.7774 OF 2022

**YOGESH SHRIMANT GURAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH CHIEF
SECRETARY AND OTHERS**

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Mr A. P. Gunge, Advocate for petitioner;
Mr P. K. Lakhotiya, A.G.P. for respondents/State
Mr S. B. Ghute, Advocate for respondent No.4

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 28th July, 2022

PER COURT:

1. The petitioner has put forth prayer clause (B), which reads as under :-

“By issue of appropriate writ, direction may kindly be given to the Respondent to consider the request application of petitioner dated: 27/01/2020 for include his name in place of mother for getting service on compassionate grounds.”

2. The petitioner’s father passed away on 21/05/2004, when he was working as a ‘Peon’ with the Zilla Parishad Primary School at Pohaner, Tq. and Dist. Osmanabad. The widow (mother of the petitioner) moved an application on 15/07/2005. Her name was

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included in the list of the candidates to be considered for appointment on compassionate basis.

3. The petitioner attained the aged of 18 years and moved an application on 16/12/2017, praying for deletion of the name of his mother and inclusion of his name. By a communication dated 16/01/2019, the Competent Authority conveyed to the Chief Executive Officer, Zilla Parishad, Osmanabad, that there is no provision for replacing the name of the eligible candidate, once it is included in the list of probable compassionate appointees.

4. We are aware of the Government Resolution dated 20/05/2015, by which, the State of Maharashtra had introduced a prohibition on replacing names from the list of eligible candidates for compassionate appointments. However, this Court (Coram: Z.A. Haq and S. M. Gavhane, JJ.), in **Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra and others, 2020 (5) Mh.L.J. 381**, has quashed and set aside the clause prohibiting such change in name for being arbitrary.

5. Recently, the learned Full Bench of this Court at the

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Principal Seat has concluded in **Nilima Raju Khapekar vs. Executive Director, Bank of Baroda and others, 2022 (3) Mh.L.J. 441**, that compassionate appointment is not a right and the purpose of compassionate appointment is lost, if a claimant is able to sustain himself and his family for several years, after the demise of the sole bread earner. So also, the financial capacity of the family and payment of pensionary benefits should also been taken into account.

6. The learned Advocate for the petitioner submits that, an application dated 27/01/2020, has been pending with the Zilla Parishad, praying for inclusion of the name of the petitioner in place of his mother and the said application may be considered by the Zilla Parishad.

7. In view of the above, this petition is disposed off.

8. We leave it to the Zilla Parishad, to deal with the application of the petitioner, dated 27/01/2020, in accordance with the policies, as may be applicable.

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(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

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