

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

WRIT PETITION NO.1278 OF 2021

Omkar s/o. Raosaheb Dakore
Age 23 years, Occu: Education.,
R/o. Hipparga (Mal) Tq. Biloli,
Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
Education Department,
Mantralaya, Mumbai-400001.
2. The Deputy Director of Education
Latur.
3. The Education Officer (Secondary)
Zilla Parishad, Nanded.
4. The Head Master,
Chattrapati Shivaji High School,
Sharda nagar, Sagaroli,
Tq. Biloli, Dist. Nanded.

...Respondents

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Mr. G.J. Karne, Advocate for the Petitioner.

Mr. S.B. Pulkundwar, AGP for the Respondent/State.

Mr. S.V. Salve h/f Mr. Rajendra D. Tidke, Advocate for Respondent
No.4.

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**CORAM : A.S. GADKARI &
S.G. MEHARE, J.J.**

DATED : 24th JANUARY, 2022

ORAL JUDGMENT (PER S.G. MEHARE, J.) :-

1. Rule. Rule made returnable forthwith. By consent of the parties
heard finally.

2. The petitioner is seeking directions under Article 226 of the Constitution of India against the Education Officer (Secondary), Zilla Parishad, Nanded, respondent no. 3, to decide his application dated 10.01.2020 for his appointment on compassionate ground.

3. The facts giving rise to the present petition are as follows:

The father of the petitioner was an Assistant Teacher in the school run by respondent no. 4. He died on 07.07.2019. He has a brother, a sister and a mother. The family was dependent on the income of his father. However, due to the sudden demise of his father, they have lost their only source of income. He then applied for the compassionate appointment by application dated 09.08.2019 with respondent no.4. Respondent no. 4 neither appointed him nor forwarded his application to respondent no.3; therefore, he applied to respondent no.3 on 10.01.2020, requesting him to appoint him in view of his application dated 07.07.2019. His request was not attended to by respondent no. 3; hence, he made representations on different dates but in vain. Therefore, he approached this court.

4. Neither of the respondents dispute that the father of the petitioner was serving as a teacher in the school run by respondent no.4, and he died during his service. The legal heirship of the petitioner is also not doubted.

5. Heard the learned counsels for the respective parties.
6. The learned counsel for respondent no.4, would argue that the petitioner does not possess the educational qualification to be appointed as a teacher in place of his father. There were no vacancies in the school. However, he is ready to forward the application submitted to him by the petitioner to the office of respondent no.3.
7. The learned counsel for the petitioner would concede that the petitioner does not possess requisite educational qualification for the post of teacher. However, he may be posted on any Class III or Class IV post by adding his name to the waitlist maintained by respondent no.3. The petitioner would not claim equity in future. He relied on the judgment of the coordinate bench of this court delivered in Writ Petition No. 3920 of 2017, Smt. Karuna Motiram Jadhav vs. The State of Maharashtra and others, dated 15th February 2018. He also relied on few other judgments, but those are related to the limitation to apply for compassionate appointments. Herein the case, there is no dispute on limitation. Hence, those judgments are not discussed.
8. The deceased father of the petitioner was a teacher in a private school. The management of the private school is the appointing authority and, hence the applicant had rightly applied to the school. On the appointment of such a candidate, the school management has

to send a proposal for approval. The school did not deny the appointment of the petitioner in place of his father, but for want of requisite educational qualification, it could not appoint him. In addition to the above, the posts are also not vacant with respondent no.3. Under such circumstances, the school was to forward the application to the Education Officer of the District i.e. Respondent no. 3. But nobody has paid heed to the request of the petitioner.

9. The legal position on the compassionate appointment is well settled and none of the parties pointed out any change in the Govt policy. Hence, the petition deserves to be allowed partly.

10. The petition is disposed of in the following terms:

(1) Respondent no. 4 shall forward the application dated 07.07.2019 to respondent no.3, within three weeks from the date of receipt of this order.

(2) On receiving the application forwarded by respondent no. 4, respondent no.3 shall maintain the name of the petitioner in the waitlist for the appointment on compassionate ground for Class III and Class IV employees as per seniority. The petitioner shall be appointed either on Class III or Class IV post, whichever is available as per the Rules early in time.

(3) Petitioner shall not be entitled to claim the post of teacher in

future on compassionate grounds.

(4) Rule is partly made absolute in the aforesaid terms.

(S.G. MEHARE. J.)

(A.S. GADKARI, J.)