

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

279 WRIT PETITION NO. 9982 OF 2022

GOVINDA JANARDAN GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Abhinay D. Khot & Mr. Anand S. Deshpande.
AGP for Respondent/State: Mrs. R. P. Gaur.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 14th November, 2022.

P.C.:

1. By this petition, the petitioner has put forth prayer clauses 'B' and 'C' as under :-

"B. By way of writ of certiorari or any appropriate writ, order or directions in the like nature, this Hon'ble Court may kindly quash and set aside the impugned letter / order dated 19.08.2022 issued by the President, Parimandaliya Samittee, Maharashtra Jeevan Pradhikaran Mandal, Aurangabad and thereby direct to accept the application of the petitioner and enter his name in the waitlist at the Serial Number from the date of his attaining age of majority for the compassionate appointment;

C. Pending hearing and final disposal of this Writ Petition, this Hon'ble Court may kindly quash and set

aside the impugned letter / order dated 19.08.2022 issued by the President, Parimandaliya Samittee, Maharashtra Jeevan Pradhikaran Mandal, Aurangabad and thereby direct to accept the application of the petitioner and enter his name in the waitlist at the Serial Number from the date of his attaining age of majority for the compassionate appointment;”

2. The dates and sequence of events in this matter are recorded as under:

- a) The father of the petitioner Janardan Trimbak Thakur was working as Jalsevak on a class-IV post with the Maharashtra Jeevan Pradhikaran Mandal, Aurangabad since 1987;
- b) Janardan passed away on 24th January, 2007 while being in employment;
- c) The mother of the petitioner applied for compassionate appointment;
- d) The petitioner is born on 26th November, 1994 and was a minor when his father passed away;
- e) The petitioner became 18 years of age on 26th November, 2012;

- f) Beyond the limitation period of one year, he applied in place of his mother on 13th May, 2014 as his mother attained the age of 45 years and was barred by age from seeking compassionate appointment;
- g) The petitioner has a sister, who has recently got married;
- h) The petitioner is working as a labourer and he has also recently got married; and
- i) After 15 years of the demise of the bread earner, the petitioner is seeking compassionate appointment.

3. Insofar as the grievance of the petitioner as regards the order passed by respondent No.3 declaring that the petitioner's name cannot be entered while substituting the name of the mother, this Court has concluded in ***Dnyaneshwar S/o Ramkishan Musane Vs. The State of Maharashtra, (2020) 5 Mh.L.J. 381***, that the clause introduced in the Government Resolution dated 20th May, 2015 prohibiting substitution of the name, is *ultra-vires* and bad in law. The name of the petitioner can, therefore, be inserted.

4. However, there is a hurdle in the path of the petitioner on the following grounds:-

- i) It is 15 years past the demise of the father;
- ii) For 15 years, the family has survived;
- iii) The sister of the petitioner has also got married; and
- iv) The petitioner has also got married and is working as a labourer.

5. In the light of the above, no purpose would be served in considering the case of the petitioner for compassionate appointment since the very purpose of granting compassionate appointment to render immediate financial assistance to the family, who has lost a bread earner and has no source of income, would be nullified. The petitioner is married and well settled in life.

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

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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