

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO.3413 OF 2022

SHUBHAM KACHRU GADVE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for Petitioner : Mr. A. S. Shejwal
AGP for Respondents-State : Mr. S. G. Karlekar
...

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

DATE : 25th August, 2022

PER COURT :

1. The father of the petitioner was in Government service, as a 'Junior Clerk,' and he passed away on 02/06/2012. The petitioner is born on 10/11/1998. The petitioner became an adult on 10/11/2016, and moved an application on 17/11/2016, for seeking compassionate appointment in place of his father in Government service.

2. The learned AGP submits that the petitioner will have to approach the Maharashtra Administrative Tribunal considering Section 15 read with 3 (q) of the Maharashtra Administrative Tribunals Act, 1985.

3. The learned Advocate for the petitioner contends that in a Judgment delivered by the High Court of Orissa, such a petition was entertained. On a challenge to the said indulgence of the High Court of Orissa, the Hon'ble Supreme Court has delivered an order on 20/05/2022, ***Malaya Nanda Sethy vs. State of Orissa and others, 2022 SCC Online (SC) 684***, and refused to interfere with the indulgence shown by the High Court Orissa.

4. We have perused the Judgment delivered by the Hon'ble Supreme Court in ***Malaya Nanda Sethy Vs. State of Orissa and others, dated 20/05/2022 (Supra)***. We find that the issue as to whether a High Court should entertain a petition which is maintainable statutorily before a Tribunal as a matter of exercising jurisdiction on the basis of discretion, is not at all raised before the Hon'ble Supreme Court. The learned Advocate, has therefore, attempted to misdirect us by relying on this Judgment.

5. Nevertheless, we find that the grievance of the petitioner can be taken care of, by the learned Tribunal.

6. As such, this petition is disposed off from the file of this Court.

7. The Registry shall transmit this petition to the learned Maharashtra Administrative Tribunal At Aurangbad, to be registered as an original application.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

vjg/-.