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

926 WRIT PETITION NO.11836 OF 2019

**MANGESH SHIVAJI JUGAL PANDA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. K.P. Rodge, Advocate holding for Mr. P.G. Rodge, Advocate for petitioner;

Mrs. M.A. Deshpande, A.G.P. for respondent nos.1 to 3;

Mr. H.D. Deshmukh, Advocate for respondent no.4

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 4th March, 2022

P.C.

1. The grievance of the petitioner is that though he has been appointed on compassionate ground, the Education Officer is refusing approval on the ground that there was a ban on recruitment when he was appointed in the place of his deceased father as a Peon taking into account that his father, Laboratory Attendant, had died while in service. By this petition, he is aggrieved by the order of rejection dated 16.4.2018 passed by the Education Officer. He places reliance upon:-

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- a) Judgment delivered by us in Smt. Yogita W/o Shivsing Nikam vs. The State of Maharashtra & ors., in Writ Petition No.4219 of 2018 and companion Writ Petition, on 11.08.2021, [**2021 (6) ABR 545**];
- b) The order passed by the learned Division Bench of this Court at Bombay in Writ Petition No.9966 of 2015, on 7.11.2019;
- c) The order passed by the learned Division Bench of this Court at Bombay in Writ Petition No.7507 of 2016, on 11.12.2018;
- d) Judgment delivered by learned Single Judge of this Court at Bombay in Writ Petition No.12448 of 2019, on 14.10.2020.

2. The learned A.G.P. submits on instructions from the concerned Education Officer respondent no.3, on the basis of the communication dated 4.3.2022, that he is re-considering the case of this petition and has prayed for two weeks time. Copy of the communication is taken on record and marked as 'X-1' for identification.

3. In view of the above, this petition is disposed off expecting respondent no.2 to re-consider his decision of rejection vide the impugned order dated 16.4.1982, in the light of the judgment

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delivered by this Court in Smt. Yogita w/o Shivsing Nikam vs. The State of Maharashtra & ors.. As such, the impugned order dated 16.4.2018 would stand set aside after the Education Officer passes a fresh order. Thereafter, if the petitioner's grievance is still not redressed, he would be at liberty to seek redressal of his grievance by resorting to a remedy as is permissible in law.

4. Since the petitioner has been appointed on the post of a Peon and not on the vacant post of his father (a Laboratory Attendant), if approval is granted to the appointment of the petitioner, the same shall be effective from the date on which the post fell vacant. The approval shall be deemed to be effective from that date.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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