

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

WRIT PETITION NO.823 OF 2021
WITH
CIVIL APPLICATION (CAW) NO.207 OF 2022

1. Sushma Santosh Neware,
Aged 45 years, Occ. Housewife,
R/o Sharda Nagar No.2,
Mangrulpir Road, Khadki,
Tq. & Dist. Akola

2. Om Santosh Neware
Aged 18 years, Occ. Education
R/o Sharda Nagar No.2,
Mangrulpir Road, Khadki,
Tq. Dist. Akola

... Petitioners

-vs-

1. The State of Maharashtra
through its Secretary for Education
and Rural Development Department,
Mantralaya, Mumbai

2. The Zilla Parishad, Akola,
through its Chief Executive Officer,
Akola, Tq. & Dist. Akola

... Respondents

Shri S. M. Vaishnav, Advocate for petitioners.

Smt Kalyani Deshpande, Assistant Government Pleader for respondent No.1.

Shri Sagar Katkar, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.

DATE : January 31, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

Considering the nature of relief sought by the petitioners, the writ
petition is taken up for hearing and decided finally by this judgment.

Rule. Rule made returnable forthwith and heard the learned

counsel for the parties.

The husband of petitioner No.1 and father of petitioner No.2 was in employment with the Zilla Parishad, Akola. He expired due to Cancer on 28/06/2013 while serving on the post of Junior Clerk. The petitioner No.1 thus moved an application seeking her appointment on compassionate ground. The application in that regard was initially made on 10/07/2013. On 08/02/2019 the Chief Executive Officer issued a communication to the petitioner calling upon her to remain present for consideration of her claim. It appears that despite that communication, nothing further has happened in the matter. The petitioner No.1 on 14/10/2020 made a further representation stating therein that the petitioner No.2 had now attained the age of majority and his name be substituted in place of petitioner No.1. Since no decision was being taken on this application, present writ petition has been filed.

2. The learned counsel for the petitioners has invited attention to the decision of this Court in *Dnyaneshwar Musane vs. State of Maharashtra and ors. 2020(3) ALL MR 550* to urge that substitution of the name of one legal representative by the name of another legal representative has been held to be permissible. This is after considering the Government Resolution dated 28/05/2015. By inviting attention to Civil Application No.207/2022 it is submitted that on 24/12/2021 the Chief Executive Officer has informed the

petitioner that since the petitioner No.1 has crossed the age of 45 years, her name has been deleted from the waiting list.

3. The learned counsel for the respondent No.2 seeks time to verify the aforesaid position. However we find that since the representation made by the petitioner No.1 dated 14/10/2020 is required to be adjudicated in the light of the judgment of this Court in *Dnyaneshwar Musane* (supra), the interests of justice would be served by directing the respondent No.2 to decide representation dated 14/10/2020 in accordance with law after considering the decision referred to herein above. The representation dated 14/10/2020 having been made before attaining the age of 45 years, it shall be decided without being influenced by the communication dated 24/12/2021 issued by the Chief Executive Officer. Such decision be taken within a period of four weeks from the production of copy of this order before the respondent No.2. The decision taken shall be communicated to the petitioners. With these directions the writ petition is allowed and disposed of. Civil Application is also disposed of. Rule accordingly. No costs.

(Pushpa V. Ganediwala, J.)

(A. S. Chandurkar, J.)