

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1166 OF 2008

The City of Nagpur Municipal
Corporation, through its
Municipal Commissioner,
Civil Lines, Nagpur.

... Petitioner

- Versus -

1) The Secretary, Maharashtra State
Human Rights Commission, through
its Secretary, 9, Hajarimal Somani
Marg, Opp. Chhatrapati Shivaji
Terminals (V.T.), Mumbai-400001.

2) Ku. Supriya Shrikrushna Shirsat,
aged 25 years, r/o c/o Kamalabai
Wankhede, Sidharth Nagar,
Kamathi Road, Nagpur.

... Respondents

Shri J.B. Kasat, Advocate for Petitioner.

Shri S.S. Doifode, Assistant Government Pleader for Respondent
No.1.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 21 FEBRUARY 2022

P.C.:

Heard Shri Kasat, learned Counsel for the Petitioner and Shri Doifode, learned Assistant Government Pleader for the Respondent No.1.

2) The Petitioner Municipal Corporation has challenged the order dated 17 October 2007 passed by the Maharashtra State Human Rights Commission directing Petitioner Municipal Corporation to appoint Respondent No.2 in service of the Municipal Corporation on compassionate ground.

3) This petition was filed in the year 2008 and while issuing Rule on 11 November 2008, the impugned order has been stayed. We note that the Respondent No.2 for whose benefit the order was passed by the Maharashtra State Human Rights Commission, had claimed to be appointed on compassionate basis in place of her mother, who was in employment of the Petitioner Municipal Corporation as a Primary School Teacher. The Respondent No.2's mother expired on 1 February 1988.

4) In the view of the interim order granted to the impugned order of the Maharashtra State Human Rights Commission, the Respondent No.2 has not been appointed. The Respondent No.2 has neither challenged the order granting stay

nor has sought vacating the stay order. The Respondent No.2 has also not filed any petition on her own for getting appointment on compassionate basis.

5) The claim of the Respondent No.2 is for appointment on compassionate basis after her mother expired, which has occurred more than 30 years ago. It is settled law that while considering the claims for appointment on compassionate basis, the time factor is of importance. Therefore, assuming everything against the Petitioner, the genesis of this litigation, i.e. appointment to Respondent No.2 on compassionate basis is rendered academic as it cannot be enforced at this stage. No purpose is served by keeping the impugned order on record. The impugned order dated 17 October 2007 is quashed and set aside. The question of law as regards jurisdiction raised by the Petitioner is kept open to be considered in appropriate case.

6) Rule is made absolute in terms of prayer clause (i) of the petition. No costs.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

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