

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION (REVIEW) NO. 16 OF 2022
IN
WRIT PETITION NO. 1052 OF 2021 (D)

Shri Narendra Ukanda Avadhut
..VS..
The State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Vishal Anand, Advocate for applicant.
Mr. K.L. Dharmadhikari, Assistant Government Pleader for non-
applicant Nos.1 and 2.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : 17.10.2022

Heard Mr. Vishal Anand, learned counsel for the applicant and Mr. K.L. Dhamadhikari, learned Assistant Government Pleader who appears by waiving notice for respondent Nos.1 and 2.

2. Learned counsel for the review applicant has relied upon the case of *Dnyaneshwar S/o Ramkishan Musane Vs. The State of Maharashtra and Others*, in *Writ Petition No. 6267 of 2018*, decided on 11.03.2020 and submits that the Government Resolution dated 20.05.2015 imposing prohibition upon substitution of name of any legal representative of deceased employee by other legal representative is arbitrary, irrational and unreasonable.

3. However, there is now a well settled law declaring that the right to seek compassionate appointment does not survive to legal representatives of the eligible legal heir, especially after passage of long period of time since the death of the father or the mother, in harness.

4. Of course, in the case of *Malaya Nanda Sethy Vs. State of Orissa and others, 2022 LiveLaw (SC) 522*, the Apex Court has held that the authorities must consider and decide the applications for appointment on compassionate ground, as per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications. In doing so, the Apex Court has also given a direction to decide the application of the appellant therein in accordance with the policy which was in existence on the date of his application made in July 2010.

5. In the present case, the review applicant had made his application on 12.03.2020 and on that date, there was no policy of the State of Maharashtra which was an existence and which permitted substitution of the name of the eligible legal heir by the name of the other legal representative for seeking appointment on compassionate basis. This is what is held by this Court in the judgment and order under review, which being a view taken cannot be substituted by another view, as this Court is not sitting in appeal over its own judgment. Then, the view taken in the case of *Dnyaneshwar S/o Ramkishan Musane*

(supra) has no application to the facts of the present case for the reason that the Government Resolution dated 20.05.2015, found to be unreasonable by the Co-ordinate Division Bench of this Court in Writ Petition No. 6267 of 2018, now is no longer in existence and has been superseded by the new policy of the State of Maharashtra, which was prevailing on the date of the application of the review applicant.

6. In view of above, we find that there is no error apparent on the face of the record. The Review Application stands dismissed. No costs.

JUDGE

JUDGE

Kirtak