

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

WRIT PETITION NO.1627 OF 2018

Uttam S/o Tukaram Palkar (Since deceased) Thr. LRs Vaibhav U. Palkar and ors.

-vs-

Zilla Parishad, Buldhana Thr. Executive Officer and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. G. Wankhede, Advocate for petitioner
Shri Parag R. Wagh, Advocate for respondent Nos.1 and 2.
Ms Kalyani R. Deshpande, Assistant Government Pleader for
respondent No.4.

CORAM : A. S. CHANDURKAR AND URMILA S. JOSHI-PHALKE, JJ.

DATE : June 20, 2022

P. C.

Leave granted to the petitioner to implead the Divisional Commissioner Amravati Division, Amravati as respondent No.4. Amendment be carried out forthwith.

Ms Kalyani R. Deshpande, learned Assistant Government Pleader waives notice for the newly added respondent.

2. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The petitioner claims that he had married Smt Nalini Namdeo Kolte in the year 1984 with the consent of his first wife. Smt. Nalini Kolte was working as Health Assistant at Primary Health Center at Zilla Parishad, Buldhana. On 15/10/2007 she executed a Will

bequeathing her rights in favour of the petitioner. She died on 25/06/2009 and after her demise the petitioner had initiated proceedings under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate. The proceedings were numbered as Succession Case No.18/2010 and the brother of the deceased Nalini raised an objection therein. The learned Civil Judge Senior Division, Buldhana by the order dated 15/01/2016 directed issuance of succession certificate in favour of the petitioner to receive the amount of Rs.20,86,985/-. Armed with this succession certificate the petitioner made a request to the Zilla Parishad through its District Health Officer to release the retiral dues of the deceased Nalini in his favour. After examining the documents the District Health Officer on 09/01/2017 rejected the request as made on the ground that the name of the petitioner was not shown as nominee in the service-book of the deceased. The petitioner therefore on 03/02/2017 made a representation to the Divisional Commissioner stating therein that under the order passed by the Civil Court he was entitled to receive the service benefits. Since the aforesaid amount has not been released, the petitioner has approached this Court.

3. The respondent Nos.1 and 2 despite service have not filed any affidavit in reply to oppose the claim of the petitioner. It is seen that

after the order dated 09/01/2017 was passed by the District Health Officer, the petitioner had approached the Divisional Commissioner by making a representation dated 03/02/2017 for release of retiral benefits in his favour along with necessary documents including the succession certificate.

4. In these facts, the interests of justice would be served by directing the respondent No.4-Divisional Commissioner to take a decision on the representation dated 03/02/2017 in accordance with law. The succession certificate dated 08/03/2010 and its legal effect shall be taken into consideration. It is open for the Divisional Commissioner to grant an opportunity of hearing to the contesting parties. To facilitate such adjudication, the petitioner shall appear before the Divisional Commissioner on 01/07/2022 along with copy of this order. The Divisional Commissioner shall adjudicate the claim as made within a period of four weeks from that day and communicate the order passed to the parties. All points are kept open for being raised by the petitioner if the occasion arises.

Writ Petition is disposed of. Rule accordingly. No costs.

(Urmila S. Joshi-Phalke, J.)

(A. S. Chandurkar, J.)