

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

**WRIT PETITION NO.6457 OF 2019**

Sarita wd/o Bharat Shende, At and Post Bela, Tah. And Dist. Bhandara

-vs-

State of Maharashtra, Thr. Its Secretary, School Education Dept. Mantralaya, Mumbai and ors.

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

Court's or Judge's Orders.

Shri I. N. Choudhari, Advocate for petitioner.  
Ms Kalyani R. Deshpande, Assistant Government Pleader for  
respondent Nos.1 and 2.  
Shri Vasant V. Tekade, Advocate for respondent Nos.3 and 4.  
Shri A. Dixit, Advocate for respondent Nos.5 and 6.

**CORAM : A. S. CHANDURKAR AND URMILA S. JOSHI-PHALKE, JJ.**  
**DATE : June 20, 2022**

**P.C.**

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

The petitioner's husband was appointed as Assistant  
Teacher at respondent No.4-school run by respondent No.3-  
Education Society. In 2013 the services of the petitioner's  
husband were absorbed as Surplus Teacher at respondent No.6-  
school run by respondent No.5-Education Society. The  
petitioner's husband expired on 02/07/2018 and the petitioner  
sought appointment on compassionate basis by making such  
application to the respondent Nos.3 and 4 where her husband  
was initially appointed. That claim of the petitioner was not

accepted by the Education Officer (Secondary) and by the impugned communication dated 16/03/2019 it was stated that since there was a ban on recruitment and the staffing pattern was yet to be finalized, permission could not be granted to appoint the petitioner on compassionate ground. This communication is challenged in the present writ petition.

2. After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for respondent Nos.1 and 2 and after perusing reply filed by respondent Nos.3 to 6, it is clear that though the petitioner's husband was initially appointed at respondent No.4-school, his services were absorbed in the year 2013 at respondent No.6-school. Since he expired while serving at respondent No.6-school, it would be necessary for the petitioner to make an application for grant of compassionate appointment at that school. The Education Officer in paragraph 5 of his affidavit has observed that since the petitioner has not applied for grant of compassionate appointment at respondent No.6-school, that direction may be issued for making such application. It is further stated therein that the name of the petitioner can be recommended for appointment at some other school on the basis of her

educational qualification if there is no vacancy at the respondent No.6-school.

In the light of aforesaid, the writ petition is disposed of by passing the following order :

(i) The petitioner is permitted to make an application for grant of compassionate appointment at the respondent No.6-School. If such application is made within four weeks from today, the same shall be considered by the respondent Nos.5 and 6 in accordance with law.

(ii) In case such respondents are unable to appoint the petitioner on compassionate basis for any justifiable reasons, the Education Officer (Secondary) shall recommend the case of the petitioner for compassionate appointment at such school where vacancies are available.

Rule is made absolute in aforesaid terms. No order as to costs.

(Urmila S. Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita

Digitally signed by ASMITA  
ADWAIT BHANDAKKAR  
Signing Date: 21.06.2022  
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