

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

63 WRIT PETITION NO.2858 OF 2023

SHAIKH NAIM SHAIKH ABDUL RAHIM  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY  
AND OTHERS

.....  
Advocate for Petitioner : Mr. Imran Khan Guftar Khan Durrani  
AGP for Respondent Nos. 1 and 2: Mr. S.G. Karlekar  
.....

**CORAM : RAVINDRA V. GHUGE AND  
SANJAY A. DESHMUKH, JJ.  
DATED : 14<sup>th</sup> MARCH, 2023.**

**PER COURT :-**

1. The father of the Petitioner passed away on 3.6.2009.  
This Petition is filed on 8.2.2023.

2. We find that the Petition is bereft of material details as regards:-

- a) The Petitioner is the youngest amongst 6 siblings.
- b) He has one eldest sister and four elder brothers.
- c) Whereabouts of his sister. Similarly, no details are mentioned about his first four brothers and as to how do they earn a livelihood.

- d) The details about pensionary benefits received by the mother of the Petitioner.

3. The Hon'ble Supreme Court has held in the following cases that the compassionate appointment is neither a right nor a mode for creating an employment :-

- i) Fertilizers and Chemicals Travancore Ltd and Ors. v. Anushree KB (2022) SCC Online SC 1331,
- ii) Director of Treasuries in Karnataka vs. v. Somyashree (2021) SCC Online SC 704,
- iii) Mumtaz Yunis Mulani v. State of Maharashtra (2008) 11 SCC 384,
- iv) Punjab State Power Corporation Limited and Ors. vs. Nirval Singh (2019) 6 SCC 774,
- v) State of Himachal Pradesh and Anr. vs Shashi Kumar (2019) 3 SCC 653.

4. It cannot be ignored that out of 5 brothers, the Petitioner is the youngest. The first elder brother can be said to be initially eligible for seeking compassionate appointment, provided he is unemployed and he has moved an application for seeking such appointment. After a period of 14 years, and when they survive for all these years, and the mother could rear six children, out of which the Petitioner is the youngest, we do not find that the purpose of compassionate appointment could be served by issuing a direction to any authority to ensure that the proposal of the Petitioner is cleared.

5. In view of the above, we do not deem it appropriate to exercise our writ jurisdiction in such facts and circumstances of the case. This Petition is, therefore, dismissed.

**(SANJAY A. DESHMUKH, J.)**

**(RAVINDRA V. GHUGE , J.)**

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