

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 WRIT PETITION NO.5453 OF 2022

1 Chandrabhaga Dhondiba Magare(Gaikwad) ... **Petitioners**
Age 30 years Occu: Household
R/o Khaja Colony, at Present Umari
Tq. & Dist. Parbhani

2 Ku. Komal Kashinath Magare
Age 21 years, Occu: Nil,
R/o Khaja Colony, Parbhani,
Tq & Dist. Parbhani

VERSUS

1. The State of Maharashtra,
Through its Secretary, Agricultural
Department, Mantralaya, Mumbai32

2. The Vasantao Naik Marathwada Krushi ... **Respondents**
Vidyapith, Parbhani, Through its Registrar

3. Associate Dean/Principal,
Krushi Mahavidyalaya,
Vasantao Naik Marathwada Krushi
Vidyapith, Parbhani.

...

Advocate for Petitioners : Mr. Anand V. Patil Indrale
AGP for Respondents State: Mr. V. M. Kagne
Advocate for Respondents 2 & 3 : Mr. M. V. Navandar

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 27th September, 2023

ORDER:

1. **Rule.** Rule made returnable forthwith and heard finally by
consent of the parties.

2. Our first order dated 21.07.2022 reads as under:

1. The petitioners are aggrieved by the rejection of their request for compassionate appointment, vide the impugned order dated 16.11.2021.

2. The second petitioner's grandmother, namely Kausalyabai Pandurang Magare was in permanent employment from 24.01.2005 and passed away due to illness while in service as a permanent labourer on 13.04.2021. The grandfather had passed away on 15.11.2012. The father of the petitioner pre-deceased the grandmother on 22.09.2019 and the mother of petitioner pre-deceased the grandmother on 09.10.2008.

3. Issue notice to the respondents, returnable on 23.08.2022.

4. Since this is a peculiar case wherein petitioner no.2 is a lady who has been rendered an orphan as her parents as well as grand-parents have passed away, we direct respondent nos.2 and 3 not to fill in the post occupied by the deceased grandmother Kausalyabai Pandurang Magare, until further orders.

5. The office objections pertaining to page no.14 stands overruled."

3. The University has entered an affidavit and has contended that Petitioner No.2, being a grandchild, cannot be considered to be such member of a family who can lay a claim for compassionate appointment. Secondly, Petitioner No. 2 has got married during the pendency of the Petition.

4. The learned Advocate for the Petitioners submits that Petitioner No.1 is an elder sister of Petitioner No.2. She was already married and she is before this Court only to make a statement that Petitioner No.2 can be considered for compassionate appointment. He

places reliance upon the judgment delivered by the learned Single Judge of the Rajasthan High Court dated 27.07.2023 in Writ Petition No.2291/2022 (**Smt. Nirjara Singhvi Vs. The State of Rajasthan & Ors.**).

5. We have observed in our above reproduced order dated 21.07.2022 that this is a case which brings up peculiar facts and circumstances. At the cost of repetition, the Petitioners grandfather passed away on 15.11.2012. The father of the Petitioners and their mother have passed away a decade ago. The bread earner was the grandmother of these Petitioners, who passed away on 13.04.2021 while in service. We, therefore, entertained this Petition by issuing notice as Petitioner No.2, a grandchild, was dependent on her grandmother (the deceased employee).

6. Petitioner No.1 is already married and is peacefully residing with her husband. In case of a compassionate appointment, the dependency of the claimant is to be considered and it also has to be taken into account, as to whether the family who has lost the bread earner, is living in penury. However, during the pendency of this Petition, Petitioner No.2 has got married and is now living alongwith her husband.

7. In **Smt. Nirjara Singhvi (supra)**, the learned Single Judge considered the issue of “dependent”. The husband of the Petitioner died

due to covid. The mother of the Petitioner also died due to Covid. The mother-in-law of the Petitioner thereafter died on account of Covid. This was followed by the demise of the father-in-law, again on account of Covid. This left the Petitioner a destitute with the responsibility of nurturing and bringing up twin daughters who were minors. The learned Single Judge, therefore, noted that the Petitioner is facing destitution and there is no bread earner in the family.

8. In the instant case, though Petitioner no.2 would not be covered by the scheme, we were inclined to consider the claim on the ground that she was rendered a destitute after her grandmother (the bread earner) passed away. Since the petitioner is now married and residing with her husband, we do not find that this could be a case, wherein our extraordinary jurisdiction needs to be invoked.

9. In view of the above, **this Petition is dismissed.**

10. Rule is discharged.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan