

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

WRIT PETITION NO.2948 OF 2023

**UDGIR MUNICIPAL COUNCIL THROUGH ITS CHIEF OFFICER
VERSUS
SHAIKH MUKHTAR ABDUL MASTANSAB AND ANOTHER**

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Advocate for Petitioner : Mr. Parag V. Barde
AGP for Respondent No.2 – State : Mr. S.W. Munde
Advocate for Respondent No.1 : Ms. Asfia Nuzhat Ansari

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th MARCH, 2023

PER COURT :

1. By this petition filed under Article 226 and 227 of the Constitution of India, petitioner challenges orders dated 11/09/2019 and 29/04/2022, passed by the Member, Industrial Court, Latur, in Complaint (ULP) No.263/2018, thereby allowing the complaint filed by respondent No.1 and directing petitioner to appoint respondent No.1 on compassionate ground as per recommendations of Lad-Page Committee, in accordance with law.
2. Heard learned advocate for petitioner, learned Additional Government Pleader for State and learned advocate for respondent No.1. Perused the grounds raised in the petition and documents placed on record.
3. It is not in dispute that respondent No.1 filed the said

complaint under section 28(1) read with Item Nos. 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'MRTU & PULP Act') seeking appointment on compassionate ground. Father of respondent No.1 Abdul Mastan Yasinsab was working with petitioner since 1982 as a Sweeper (सफाई कामगार) and his services were regularized since 07/06/1982. He retired on superannuation on 30/06/2017.

4. Respondent No.1's request for appointment on compassionate ground as per the Lad Page Committee report was rejected by the petitioner on the ground that his father was given appointment as sweeper in 2001, by order of the Maharashtra Government as an exceptional case and after retirement the said post was to be lapsed. In view of the Government Resolution of 2005-2006 benefit of compassionate ground cannot be extended to his legal heirs.

5. Being aggrieved by the said rejection, respondent No.1 filed the complaint. After recording evidence and hearing the parties, Industrial Court allowed the complaint and came to a conclusion that petitioner has indulged in unfair practice by denying appointment of respondent No.1 on compassionate ground. While arriving at said conclusion, Industrial Court has taken into

consideration admissions given by the witness of the petitioner in cross-examination and the decision of learned Single Judge of this Court in *Writ Petition No.5507/2014 (Udgir Municipal Council Vs. State of Maharashtra and Others)*. In similar facts, this Court dismissed the writ petition filed by the petitioner, by a detail judgment. It is not in dispute that respondent No.3 in the said writ petition was similarly circumstanced like that of respondent No.1 herein.

6. The Industrial Court on the basis of evidence led has recorded finding of facts that father of respondent No.1 was working as Safai Kamgar at the time of retirement and he was covered by Lad Page Committee report. Petitioner has wrongly kept away respondent No.1 from the said benefits without any just and sufficient reason. Considering the evidence led and findings recorded, there is no illegality or perversity found in the order impugned in present petition.

7. Apart from the above, Social Justice Department has issued Government Resolution dated 24/02/2023, thereby accepting the Lad Page Committee recommendations about giving appointment to the legal heirs of sweepers and scavengers thereby issuing revised guidelines. As per these guidelines also, respondent No.1 is entitled for appointment on compassionate ground.

8. Taking into consideration the order passed by the learned Single Judge of this Court in ***Writ Petition No.5507/2014*** and Government Resolution dated 24/02/2023, there is no merit in the challenge raised by the petitioner in present petition. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)