

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4530 OF 2022

Sarla w/o. Late Shivdas Jayram Kakulte ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

...

Mr. Sushant Yeramwar for the Petitioner.

Mr. M.M. Pabale, AGP for Respondent Nos.1 and 2.

Ms Bhairavi Ranpise for Respondent No.3.

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED: MARCH 1, 2023.

P. C. :-

1. Rule. Rule is made returnable forthwith. With consent of the parties, matter is heard finally.

2. The Petitioner is the wife of the deceased Shivdas Jayram Kakulte. The deceased Shivdas was employed by Respondent No.3- Zilla Parishad, Nashik. He was appointed by Respondent No.3 as a driver on 18/08/1997. During the subsistence of service he died on 21/03/2021. The Petitioner filed an application for family pension and other pensionary benefits on account of death of her husband. The Petitioner also filed an application seeking compassionate appointment

for her son -Rahul Shivdas Kakulte, same is negatived.

3. It is not disputed that deceased-Shivdas was appointed from Scheduled Tribe category. The proposal for validation of caste claim has already been invalidated by the Scrutiny Committee on the ground that incorrect nomenclature of the caste was mentioned with the name 'Mahadev Koli'. According to the Committee same ought to have been 'Koli Mahadev'. Keeping the merits open, the validation proceedings were disposed of. In that case the deceased was required to obtain fresh caste certificate with the correct nomenclature and required to submit proposal to the Committee afresh. It is the case of the Petitioner that order of the Committee was never intimated to the deceased and first time it was intimated to the Petitioner by letter dated 29/07/2021. Learned counsel for the Petitioner has placed reliance upon judgment of Aurangabad Bench of this Court dated 12/08/2010 in Writ Petition No.3718 of 1994.

4. Learned counsel for Respondent No.3-Zilla Parishad submits that without validation certificate son of the deceased cannot get appointment on compassionate ground. As there is no validity certificate, the Petitioner is not entitled for the benefits claimed.

5. Mr. Yeramwar, learned counsel for the Petitioner submits that paternal cousins-Vilas Pandit Kakulte and Bhagwan Pandit Kakulte of the deceased were issued validity certificate of 'Mahadev Koli', Scheduled Tribe. School records of the deceased -Shivdas pertaining to the year 1972 also records caste as 'Mahadev Koli'.

6. The fact that the caste claim of the Petitioner is not invalidated on merits is not disputed. The Committee has refrained from deciding the caste validation proceedings of the deceased Shivdas on merits as the caste certificate was with the nomenclature 'Mahadev Koli' instead of 'Koli Mahadev' and the same was received after the death of Shivdas by the Petitioner (wife of the deceased) by letter dated 29/07/2021 stating that after the death of the deceased the validation proceedings cannot be decided. Prima facie the deceased Shivdas's relatives are issued validity certificate.

7. Considering the above, Respondents shall consider the case of the Petitioner for release of family pension and retirement benefits within four months. So far as the appointment of the Petitioner's son on the compassionate grounds is concerned, the son would not be

entitled to an appointment on compassionate grounds without confirming validity certificate.

8. With these observations, petition stands disposed of. Rule is made absolute.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

MEGHA
S
PARAB

Digitally signed
by MEGHA S
PARAB
Date:
2023.03.06
15:15:57
+0530