

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

WRIT PETITION NO.5242 OF 2022

PETITIONER :- Pratik Prakash Nagapure, aged 20 years,
Occup. Student, R/o Pawasale Layout,
Kaulkhed, Tq. And Dist. Akola.

...VERSUS...

RESPONDENTS :-

1. The State of Maharashtra, through its
Secretary for Rural Development
Department, Mantralaya, Mumbai.
2. The Zilla Parishad Akola, through its
Chief Executive Officer, Akola,
Dist.Akola.

Mr. S.M.Vaishnav, counsel for the petitioner.
Mr. M.K.Pathan, AGP for respondent 1.
Mr. Ujwal Deshpande, counsel for respondent 2.

**CORAM : ROHIT B. DEO AND
 MRS.VRUSHALI V. JOSHI, JJ.**

DATED : 10/03/2023

J U D G M E N T (Per :Rohit B.Deo, J.)

(1) **Rule.** Rule made returnable forthwith. Heard finally
with consent of the learned counsel for the rival parties.

(2) The petitioner preferred Writ Petition No.3284 of
2020 since his name was deleted from the waiting list of the
eligible candidates for appointment on compassionate ground.

Earlier, the name of the mother of the petitioner was included in the list. The name of the petitioner was duly substituted in place of his mother, and as noted supra deleted.

(3) Writ Petition No.3284 of 2020 was disposed of with liberty to the petitioner to make a fresh representation on the basis of the judgment in ***Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra and ors. 2020 (3) All MR, 550.*** Paragraph 3 of the order dated 23.08.2021 in Writ Petition No.3284 of 2020 reads thus:-

“3. We make it clear that the judgment delivered in the said case of Dnyaneshwar Musane Vs. State of Maharashtra (supra) has attained finality as it has not been brought to our notice that it has been challenged by the State of Maharashtra before the Supreme Court and therefore, it shall not be open for the respondent no.2 now to rely upon Government Resolution dated 28th May,2015 in order to reject the request of the petitioner for substituting his name in place of name of his mother, in the matter of compassionate appointment.

(4) The petitioner’s representation pursuant to the order dated 23.08.2021, was favourably considered and his name was included in the waiting list. However, for reasons which are blurred, there is an endorsement that the inclusion is subject to the sanction of the government.

(5) The petitioner is aggrieved to the limited extent that the inclusion is made subject to the sanction from the government.

(6) We have not come across any material to justify the endorsement made. We were indeed informed by the learned AGP Mr.M.K.Pathan that the government is contemplating challenging the decision in *Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra* (supra). Be that as it may, it is always open to the government to challenge the said decision. However, there is no reason why the petitioner should be deprived of the fruits of the order.

(7) We, therefore quash and set aside the endorsement and the condition that the claim of the petitioner shall be considered subject to the approval or sanction from the government. We direct the Zilla Parishad, Akola to issue the appointment order, as per the seniority list uninfluenced by any endorsement, which was made against the name of the petitioner and which we have even otherwise quashed.

(8) We expect the Zilla Parishad to do the needful as expeditiously as possible. Writ petition is allowed to the aforesaid extent and disposed of accordingly.

(MRS.VRUSHALI V. JOSHI, J) (ROHIT B DEO, J)