

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

WRIT PETITION NO. 8351 OF 2022

Ku. Pooja Manikrao Dhande,
Aged 27 years, Occupation – Labour,
R/o C/o. Swapnil Madhukar Bhuskade,
Near Ingole Provisions, Rathod Lane,
Gadge Nagar, Amravati, Tq. and
District Amravati.

.... **PETITIONER**

VERSUS

- 1) The State of Maharashtra,
through its Secretary for Rural
Development, Mantralaya, Mumbai.
- 2) The Amravati Zilla Parishad,
through its Chief Executive Office,
Amravati, Tq. District Amravati.

.... **RESPONDENTS**

Mr. S.M. Vaishnav, Counsel for the petitioner,
Mr. S.M. Ukey, Addl.G.P. for respondent 1,
Mr. Manoj A Sable, Counsel for respondent 2.

CORAM : ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.
DATED : 19th APRIL, 2023

ORAL JUDGMENT : (PER : Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

2. Petitioner is assailing the communication-cum-order dated 29-11-2022 whereby respondent 2-Chief Executive Officer, Zilla Parishad, Amravati has rejected her claim for compassionate appointment on the ground that her father is a Government servant.

3. The petitioner's mother Sheela Manikrao Dhande was working as Assistant Teacher in Zilla Parishad, Amravati. She died in harness on 22-9-2020. The petitioner contends that her mother Sheela and her father Manik were separated and the petitioner was solely dependent on her mother for livelihood.

4. The petitioner preferred application dated 10-12-2020 seeking compassionate appointment, which was followed by another application in the prescribed form. The application for appointment on compassionate ground is rejected by the order impugned on the premise that the father of the petitioner Manik is in Government service.

5. The petitioner preferred representation dated 01-2-2021 stating that her father is in live-in relationship and is not

supporting the petitioner. Petitioner addressed another representation dated 10-3-2021 seeking reconsideration of the decision. The representations came to be rejected by order dated 07-7-2021. The petitioner then addressed representations dated 09-11-2022 and 25-11-2022 stating that her father performed second marriage with one Sulochana Chaudhari. She submitted that she has applied for copy of the certificate of marriage, and the same shall be produced immediately after its receipt. The certificate of marriage is annexed as Annexure-H.

6. The short submission of Mr. S.M. Vaishnav is that the Government Resolution dated 26-10-1994 on which reliance is placed in the order impugned does not preclude grant of compassionate appointment if some other family member is in service. The authority is obligated to scrutinize the case on its own merit and to ascertain whether the serving member is providing support to the family or the applicant. Mr. S.M. Vaishnav would submit that there is no application of mind to the facts of the case and there is no attempt made to ascertain whether the petitioner is supported by her estranged father who is in Government service.

7. We find considerable force in the submission canvassed on behalf of the petitioner that Clause 7(b) of the Government Resolution dated 26-10-1994 does not rule out appointment on compassionate ground *ipso facto* for the reason that there is some member of the family in Government service. All that is provided is that the appointing authority shall consider such cases with caution and shall ensure that the scheme is not misused. Implicit in the duty and responsibility to consider such applications with caution is the duty to ascertain whether the person in service is supporting the other members of the family.

8. We find that the necessary enquiry has not been done and there is no application of mind to the issue whether the father of the petitioner is supporting the petitioner as would disentitle her to appointment on compassionate ground.

9. We find it appropriate to remit the matter to respondent 2 to consider the application of the petitioner afresh after granting her an opportunity of hearing.

10. The order impugned is set aside.

11. The matter is remitted to respondent 2 to hear the petitioner and pass a fresh and reasoned order after giving due consideration to the petitioner's submission that she is not supported by her father who is in Government service.

12. Respondent 2 shall hear the petitioner and pass fresh order within eight weeks from the date of copy of this judgment is produced.

13. The petition is disposed of in the afore-stated terms.

(Mrs. Vrushali V. Joshi, J.)

(Rohit B. Deo, J.)

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