



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO. 2060 OF 2023

NEHA DADARAO AKHARGEKAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH CHIEF SECRETARY AND
OTHERS

...

Mr. D. R. Jayabhar, Advocate for the Petitioner.

Mr. P. S. Patil, AGP for Respondent Nos.1 and 2 – State.

Mr. S. B. Pulkundwar, Advocate for Respondent No.3.

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CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.

DATE : FEBRUARY 06, 2024.

ORDER :-

. Perusal of the petition would show that the father of the petitioner while working with respondent No.4 died on 17.08.2022. Thereafter, the petitioner was appointed on compassionate ground on the post of Shikshan Sevak in respondent No.4 – school. However, as respondent Nos.4 to 6 were not forwarding the proposal for approval to respondent No.3, the petitioner filed Writ Petition No.7589 of 2021 before this Court. This Court by order dated 05.01.2022 directed the respondent Nos.6 and 7 therein to forward the proposal of the petitioner for approval to respondent No.3 therein. Accordingly, the proposal of the petitioner was forwarded to the Education Officer, Zilla Parishad, Nanded. However, by impugned order dated 28.11.2022, it has been informed by respondent No.3 to respondent No.4 – school

that as there is no vacancy in respondent No.4 – school, the approval to the services of the petitioner cannot be granted.

2. According to respondent No.3, the vacancy does not exist with respondent No.4-school. In that scenario Government Resolution dated 31.12.2002 has to be followed.

3. The respondent No.4 to 6 shall forward the proposal to respondent No.3. The respondent No.3 after considering that the petitioner complies with all the conditions and requisite qualification, shall place the petitioner in the wait list of the candidates to be absorbed on compassionate ground as per the seniority. In case post becomes available with respondent Nos.4 – school, then the petitioner can be absorbed in respondent No.4 – school, or as per seniority is required to be absorbed as per the conditions enumerated in the Government Resolution dated 31.12.2002. The respondent Nos.4 to 6 shall forward the proposal to respondent No.3 within a period of four (04) weeks from today. Needless to state that ban on recruitment does not apply to the appointment on the compassionate ground.

4. With these directions, the writ petition stands disposed of.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm