



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

WRIT PETITION NO. 13619 OF 2019

Ujwala Sunil Umale .. Petitioner

Versus

Sanjeevani Shikshan Prasarak
Mandal, Nanded through its
Secretary and others .. Respondents

Shri L. V. Sangit, Advocate h/f Mrs. M. L. Sangit, Advocate for
the Petitioner.

Shri G. K. Salve, Advocate for the Respondent Nos. 1 and 2.

Mrs. Kalpalata B. Patil Bharaswadkar, A.G.P. for the Respondent
Nos. 3 to 5.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 29 JULY 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally.

2. Petitioner is seeking mandamus for appointing her on
compassionate ground in the respondent No. 2/school by following
Government Resolution dated 31.12.2002 and also seeking
further directions for disbursement of salary and approval.

3. There is no dispute that petitioner's husband was
permanent employee of the respondent No. 2/school, who expired
on 12.07.2018. As the petitioner was holding requisite
qualification of M. A. B. Ed., immediately she filed application on

08.10.2018 for appointment on compassionate ground. The respondent No. 2/school forwarded her application to the respondent No. 3/Education Officer (Secondary), Zilla Parishad, Hingoli on 22.02.2019. The respondent No. 3/Education Officer further forwarded proposal to the respondent No. 4/Deputy Director of Education, Aurangabad Division, Aurangabad for further consideration. The Deputy Director of Education returned the proposal by raising certain objections vide letter dated 02.05.2019.

4. Learned counsel for the petitioner submits that in view of Government Resolution dated 31.12.2002, the petitioner made application within stipulated period which has not been objectively considered either by the respondent No. 3/Education Officer or respondent No. 4/Deputy Director of Education. He would submit that the petitioner is entitled to appointment on compassionate ground as her claim is covered by the policy of the State Government.

5. The respondent Nos. 1 to 4 would oppose the petition by filing affidavit in reply on the ground that no post is vacant to accommodate the petitioner. It is further pleaded that there are already three teachers who are senior to the petitioner seeking appointment on compassionate ground.

6. The appointments on the compassionate ground are regulated by G. R. dated 31.12.2002. Its Appendix – A contains elaborate stipulations regarding eligibility, manner and criteria

for appointment on compassionate ground. As per Clause (6) of the Appendix – A, Education Officer is competent to receive the application and scrutinize it according to the norms laid down in the policy. He is empowered to maintain seniority of the applicants who would be accommodated in the concerned school or if the suitable post is not available then in other schools.

7. It reveals from record that petitioner's husband died on 12.07.2018 and application for appointment on compassionate ground was tendered on 08.10.2018, within stipulated period as per Clause 5(A) of the Appendix – A. Instead of deciding the application of the petitioner on its own merits, respondent No. 3/Education Officer forwarded it to the respondent No. 4/Deputy Director of Education. The respondent No. 4 in turn returned the proposal vide communication dated 02.05.2019 raising certain deficiencies. Considering the modalities stipulated by Appendix – A of G. R. dated 31.12.2002, the Education Officer should have either called upon the petitioner or the respondent Nos. 1 and 2 to remove the deficiencies and should have dealt with the application objectively.

8. The respondents have taken a stand that no post is available in the respondent No. 2/school to accommodate the petitioner. It is contended by the learned counsel for the petitioner during the course of arguments that presently there are couple of posts available for accommodation of the petitioner. The respondent No. 3/Education Officer has to consider the availability of the posts in the respondent No. 2/school or in any

other school run by the respondent No. 1/institution or by other institutions. He is also empowered to include petitioner in the wait list.

09. We are of the considered view that the Education Officer has failed to undertake the scrutiny of the application of the petitioner as contemplated by the policy stated above. We, therefor, dispose of this petition by passing following order :

O R D E R

- I. The writ petition is allowed partly.
- II. The respondent No. 3/Education Officer (Secondary), Zilla Parishad, Hingoli shall consider the application of the petitioner objectively on its own merits by granting an opportunity to her as well as respondent Nos. 1 and 2 to submit relevant documents and/or to grant opportunity to remove the deficiencies, if any.
- III. The respondent No. 3/Education Officer shall decide the application of the petitioner strictly in accordance with the policy in question within a period of four (04) weeks from today.
- IV. All points are kept open.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]