

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 1860 OF 2019

Krushiraj Kisan Deokule. ... Petitioner.
V/s.
The Chief Executive Officer,
Cantonment Board, Pune and another. ... Respondents.

Mr.Sandeep Phatak with Mr.Milind Waidande, Ms.Heena Mistry
I/b. Mr.Abhijit Kulkarni for the Petitioner.
Mr.Gaurav Sharma with Gulab Yadav and Raveena Kaur
for Respondent Nos.1 and 2.

SANJAY
KASHINATH
NANOSKAR

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**CORAM : NITIN JAMDAR AND
M.M. SATHAYE, JJ.**

DATE : 23 April 2024.

P.C. :

The Petitioner has sought appointment on compassionate basis in view of the fact that one Smt. Banabai, who was working with the Respondent- Cantonment Board, was declared medically unfit. The petition had come up earlier on 15 January 2024 and the same was argued at length. The counsel for the Respondents had pointed out that Adoption Deed which the Petitioner seeks to rely upon is highly questionable. It is stated that the Petitioner was adopted on 19 May 1987. The deed was executed in the year 2005. In view of this position, we had granted time to

the Petitioner to show other documentary evidence to support the theory of adoption such as school record or any other governmental record which is contemporary evidence that the Petitioner was, in fact, adopted in the year 1987.

2. Today, the learned counsel for the Petitioner candidly informs us that there is no such document in that regard and relies on a communication which is issued by the Principal Director, Defence Estates to the Chief Executive Officer, Cantonment Board upon representation; wherein it is stated that the Cantonment Board can take liberal approach.

3. Before we exercise writ jurisdiction, we have to look into the credibility of the Petitioner's case since it is now doubted before us. The compassionate appointment is not a matter of right but it is a relief granted to those who are dependent on the deceased employee or those who have retired due to medical illness. The appointments of this nature are to be governed strictly by the policy. Apart from this, those who invoke writ jurisdiction of this Court must be candid and their cases should unquestionable to issue writ of mandamus. Judicial conscience must be satisfied that a case exists for the writ of mandamus.

4. We have seen the Deed of Adoption. It is executed in the year 2005. The Petitioner has described his age as 35 in the

petition, therefore, at the time when the Petitioner was adopted he would be around 5 year old. Obviously, therefore, from 1987 till 2019 when the petition was filed or at least till 2005 when the Adoption deed was executed the Petitioner must have gone to the school, there must be a ration card or voter identification card etc. and the factum of adoption would have been reflected in these documents. None of these documents exists. Such a position is inconceivable position of the Adoption Deed is genuine. We, therefore, accept the contention of the Respondents that the claim of the Petitioner based on the Adoption Deed is entirely questionable. Malpractices do exist in securing public employment and, therefore, the Court will have to examine the claim of this nature carefully. We are not inclined to issue writ of mandamus as sought for.

5. Writ petition is dismissed.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)