



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

WRIT PETITION NO. 1771 OF 2018

la wd/o. Vijay Chore Vs. State of Maharashtra, through its Secretary for Urban Development,
Mantralaya, Mumbai and Others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.A. Bagde, Advocate for petitioner.

Mr. N.S. Rao, Assistant Government Pleader for respondents.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 08-07-2024

Heard Mr. R.A. Bagde, learned Counsel appearing for the petitioner and Mr. N.S. Rao, learned Assistant Government Pleader for the respondents.

2. Deceased Vijay, who expired on 1.8.2007 was in the employment of respondent No. 3 to 5 in the capacity of Oilman. Post his death, his wife Ujwala i.e. petitioner herein sought compassionate appointment.

3. The candidature of Ujjwala was accordingly entered into the wait list maintained with the respondent No. 2. However, her candidature was deleted in view of her having attained the age of 45 years. The said fact can be ascertained from the communication dated 5.12.2017 provided under the Right to Information Act to the petitioner. Since her candidature was deleted and by that time her son Akshay had attained 21 years of age, she applied vide communication dated 6.5.2016 for substitution of her name by her son Akshay Vijay Chore.

4. Such prayer was also rejected, which has prompted the petitioner to approach this Court.

5. It is the contention of the learned counsel for the petitioner that the rejection of the candidature of son of the petitioner without permitting substitution is not sustainable in view of the judgment dated 28.5.2024, delivered by the Full Bench of this Court in Writ Petition No. 3701/2022 (*Kalpana wd/o Vilas Taram and another Vs. The State of Maharashtra and Others*).

6. As against aforesaid case, the contention of Mr. N.S. Rao, the learned Assistant Government Pleader is that the claim of the petitioner shall be governed by the executive instructions as were issued from time to time which are produced along with the reply. He would claim that the very need of grant of compassionate appointment so as to overcome the financial hardship is extinguished and that being so, the petition is liable to be dismissed.

7. We have considered the submissions of the learned Counsel for the petitioner and learned Assistant Government Pleader for the respondents.

8. It is not a fact in dispute that deceased Vijay was in the employment of the respondents and after his death, the candidature of the petitioner was taken on the wait listed candidates maintained with the office of the respondent No. 2 Collector. For want of sufficient vacancies, the candidature of the petitioner was not

honoured by the respondents. The same had prompted the petitioner to approach the respondent authorities with a prayer for substitution of her name, which was also rejected.

9. The fact remains that the substitution of name of the candidate is permissible as could be inferred from the law laid down by the Full Bench of this Court in the matter of *Kalpana Teram (supra)*.

10. In this background, we are of the view that the impugned order passed by the respondent No. 5, thereby refusing substitution of the name is not sustainable and as such, the said decision is hereby quashed and set aside.

11. We direct the respondent No. 2 – Collector to consider the claim of the petitioner for substitution of her name as was moved by her on 6.5.2016 in the light of the aforesaid judgment of the Full Bench of this Court, as expeditiously as possible and in any case, within four weeks from the date of production of this order and communicate the decision taken thereon to the petitioner immediately.

12. The petition stands partly allowed in the above terms.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)