



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2216/2023

Alice w/o Cyril Masih (Alice d/o Ashwin Kothare)
Vs.

State of Maharashtra, through Secretary, Ministry of Finance, 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

Shri B. Lahiri, Advocate for petitioner
Shri A.S. Fulzele, Addl. G.P. for respondent Nos.1 to 3
Shri S.S. Bhalerao, Advocate for respondent No.4

**CORAM : ANIL S. KILOR AND
SMT. M.S. JAWALKAR, JJ..**

DATED : 04/03/2024

This Writ Petition takes exception to the judgment and order passed by the learned Maharashtra Administrative Tribunal dated 07/02/2023 dismissing the Original Application filed by the petitioner challenging the communication dated 27/11/2019 issued by the respondent No.2- the Joint Commissioner of State Tax (Profession Tax), informing the petitioner that till the time, the petitioner submits no objection of the respondent No.4 who is the legal representative of the deceased, the claim of the petitioner seeking an appointment on compassionate ground, is kept in abeyance.

2. There is no dispute that the petitioner is the daughter of first wife of the deceased Ashwin Kothare and respondent No.4 is the daughter from the second wife of the deceased. Thus, after the death of Ashwin Kothare, who

was working as a clerk-cum-typist in the office of respondent No.2, the petitioner as well as respondent No.4 are the claimants to claim compassionate appointment in place of their father.

3. Clause-9 of the Government Resolution dated 21/09/2017, which is a basis to claim appointment on compassionate ground, states that a legal heir would be entitled to claim appointment on compassionate ground and other members of the family have to give no objection in favour of such member while claiming appointment on compassionate ground.

4. On the date of making application by the petitioner, the respondent No.4 was minor and therefore, no objection was directed to be filed by the petitioner of the natural guardian i.e. mother of the respondent No.4, which the petitioner failed to submit and even the Maharashtra Administrative Tribunal has therefore found no illegality committed by the respondent No.2 in issuing the communication dated 11/11/2019.

5. In the above referred circumstances, we are not inclined to accept the submission made by the learned Counsel for petitioner that in absence of the no objection by the other members of the family, respondent No.2 has to decide who is entitled for appointment on compassionate ground i.e. whether the petitioner or respondent No.4.

6. Clause-9 of the above referred Government Resolution clearly stipulates the requirement of having no objection of the other members of the family.

7. Thus, in the peculiar facts and circumstances of the present case, the decision by the respondent No.2 not to process the claim of the petitioner for want of no objection of respondent No.4, cannot be said to be faulted with.

Accordingly, the Writ Petition is **dismissed**. No order as to costs.

JUDGE

JUDGE

R.S. Sahare