



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

WRIT PETITION NO.4008 OF 2023

[Ku. Priti Kailash Shahare .Vs. The State of Maharashtra and Ors.]

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

Court's or Judge's order

Mr P R. Puri, Advocate for Petitioner.
Ms S. Z. Haider, AGP for Respondent Nos.1 and 2.
Mr A. M. Dixit, Advocate for Respondent Nos.3 and 4.

CORAM : **AVINASH G. GHAROTE AND**
SMT. M. S. JAWALKAR, JJ.

DATE : **6th FEBRUARY, 2024.**

. Heard Mr Puri, learned counsel for the petitioner, Ms Haider, learned AGP for respondent Nos.1 and 2 and Mr Dixit, learned counsel for respondent Nos.3 and 4. None appears for respondent Nos.5 and 6, though served.

2. The petition questions the communication dated 23.02.2023 issued by the respondent No.4, whereby the petitioner has been asked to obtain the No Objection Certificate from one Smt. Gangubai Kailash alias Anandrao Shahare, for the purpose of compassionate appointment.

3. Mr Puri, learned counsel for the petitioner submits, that since there was a dispute in respect of the claim for appointment on compassionate basis on account of the petitioner as well as one Rahul Kailash Shahare claiming entitlement to the same, since the said Rahul Kailash Shahare, who claims himself to be the son of deceased Kailash Raibhan Shahare from his second wife, has passed away on 26.08.2022, the impugned

communication is not justified and the petitioner is, therefore, entitled for being appointed on compassionate basis.

4. The claim is opposed by Ms Haider, learned AGP for State and Mr Dixit, learned counsel for the respondent Nos.3 and 4, contending that as the very purpose of the appointment on the compassionate basis on account of passage of time stands frustrated, the claim cannot be entertained.

5. It is not in dispute that Kailash Raibhan Shahare was in employment with the Irrigation Department, Z. P. Gondia and had expired on 28.11.2004, while on duty. Claim for being appointed on a compassionate basis was made by the petitioner in his place. A similar application was also made by one Rahul Kailash Shahare, claiming himself to be the son of the deceased from second wife. These applications were made sometime in the year 2006. We are in 2024, twenty years down the line. The policy of appointment on compassionate basis is spelt out by the Hon'ble Apex Court in **State of West Bengal vs Debabrata Tiwari & Ors.**, reported in **2023 LiveLaw (SC) 175**, in which while laying down the principles governing the same, it has been specifically held that a claim for compassionate appointment, cannot be used as a backdoor entry for claiming public employment and in case, there is a considerable delay even on the part of the department when the application is made, the very purpose of being

appointed on a compassionate basis, which is to provide immediate succor to the family in time of need, gets lost.

6. In the instant case also, in fighting between the two families of late Kailash Shahare, even after twenty years of his demise is not yet over, considering which, on account of passage of time, the entire purpose of compassionate appointment has been frustrated and stands defeated. We, therefore, do not see any reason to interfere in the impugned communication, the petition is, therefore, **dismissed**. No order as to costs.

(M. S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)