



Judgment

25 wp 6573.23

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.
WRIT PETITION NO. 6573/2023

Rohit s/o Umakant Nimbalkar,
Aged about 23 yrs., Occ. Student,
R/o. Plot No.65, Gadgebaba Society,
Mankapur, Nagpur.

...PETITIONER.

VERSUS

1. State of Maharashtra through its
Secretary, General Administration
Department, Madam Cama Road,
Mantralaya, Mumbai-32.
2. Zilla Parishad, Bhandara,
Chief Executive Officer,
Bhandara, Dist. Bhandara.
3. Education Officer (Primary),
Zilla Parishad, Bhandara,
Dist. Bhandara.

...RESPONDENTS.

G.N. Khanzode, Advocate for petitioner.
Mr. A.M. Ghogare, Assistant Government Pleader for respondent
No. 1.
Mr. R.S. Khobragade, Advocate for respondent Nos. 2 & 3.

CORAM : VINAY JOSHI AND
SMT. M. S. JAWALKAR, JJ.

DATE : JULY 05, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. Petitioner's father Umakant was working as an Assistant Teacher in Zilla Parishad School, Barwha, District Bhandara who died on 05.05.2014. Petitioner's mother has applied for grant of compassionate appointment within one year from the death of Umakant. The name of petitioner's mother has been included in the waiting list of the candidate maintained for grant of compassionate appointment. Later, petitioner's mother has applied on 02.05.2018 for substituting the name of petitioner on account of her ill health. In pursuant of said application, the name of petitioner was included in the waiting list maintained for the period from 17.02.2001 to 04.01.2021. However, latter on, subsequent list was published on 16.09.2022, in which the petitioner's name was deleted. In consequence, the petitioner applied for re-inclusion of his name vide application dated 19.09.2022 which was came to be rejected vide .

impugned communication dated 20.10.2022.

3. The respondent has rejected substitution only on the ground that it is not permissible in law. The learned counsel appearing for petitioner has challenged the impugned decision by submitting that the issue of substitution has been authoritatively dealt by the Full Bench of this Court taking a view that substitution is permissible.

4. The issue regarding substitution of a name in compassionate appointment is no more *re-integra*. The Full Bench of this Court in case of **Kalpana wd/o Vilas Taram & anr. Vs. The State of Maharashtra & ors.**, decided on 28.05.2024 has unequivocally answered the reference by stating that substitution of the name for compassionate appointment is not contrary to the object and purpose and thus, the substitution is permissible. In view of said clear dictum of this Court, the petition deserves to be allowed.

5. In view of above, petition is allowed. The impugned communication dated 20.10.2022 passed by respondent No.2 Zilla Parishad, Bhandara, is hereby quashed and set aside.

6. Respondent No.2 Zilla Parishad, Bhandara is directed to restore/include the name of petitioner in the waiting list maintained for the purpose of grant of compassionate appointment.

7. Petition stands disposed of in above terms.

(SMT. M. S. JAWALKAR, J)

(VINAY JOSHI, J.)

Gohane