



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

WRIT PETITION NO.5300 OF 2023

1. Smt. Meerabai wd/o Hemraj Seutkar,
aged about 55 years, Occ. - house wife,
r/o Aamgaonkurdh, Post and Taq.
Salekasa, Distt. Gondia.
2. Sachin s/o Hemraj Seutkar, aged about
31 years, Occ. House Nil, R/o
Aamgaonkurdh, Post and Taq. Salekasa,
Distt. Gondia.

... PETITIONER

VERSUS

1. Zilla Parishad, Gondia, through its
Chief Executive Officer, Zilla
Parishad, Gondia, Tq. and Distt.
Gondia.
2. Deputy Chief Executive Officer,
General Administration Department,
Zilla Parishad, Gondia.

... RESPONDENTS.

Shri J. K. Matala, Advocate for the petitioners.
Shri A.M. Dixit, Advocate for respondents.

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATED : 18.06.2024.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard.

2. **RULE.** Rule made returnable forthwith. The matter is taken up for final disposal by consent of both sides.

3. By this petition, the petitioner prays for restoration of his name in the waiting list dated 10.06.2021 of the candidates to be considered for compassionate appointment. The husband of petitioner no.1 and father of petitioner no.2 was working in the Zilla Parishad, Gondia as an Attendant. Unfortunately, he died on 23.07.2006. Petitioner no.1 widow has applied to the respondents for appointment on compassionate ground. Accordingly, her name was inserted in waiting list at serial no. 324. Since petitioner no.1 was physically unfit, she urged to the Zilla Parishad to substitute the name of her son i.e. petitioner no.2 in her place. Accordingly, in the year 2010 itself substitution was permitted by which the name of petitioner no.2 was included in waiting list.

4. Time to time waiting lists were published in which name of petitioner no.2 was figured. In the meantime, respondent no.2 made a correspondence with petitioner no.2 seeking certain compliances which he did. The name of petitioner no.2 remained intact in the waiting list

till the year 2020. However, in the year 2021, name of petitioner no.2 was removed from the waiting list. Surprisingly, the waiting list again shown the name of petitioner no.1 widow and as per the Rule she being completed age of 45 years, it was removed. It is petitioner's grievance that in the year 2010 itself name of petitioner no.2 was substituted, which prevailed for next 10 years, but abruptly without notice, name of petitioner no.2 was removed.

5. Respondent no.2 has not taken a specific stand besides stating that as per the Rule if the candidates completes the age of 45 years, he/she is ineligible for compassionate appointment. It requires to be noted that, already conscious decision has been taken by the Authorities of Zilla Parishad by allowing the substitution. Though the petitioner relied on recent Full Bench decision of this Court in ***Writ Petition No.3701 of 2022 (Kalpana wd/o Vilas Taram and anr. vs. State of Maharashtra and anr) with other connected matters, decided on 28.05.2024*** holding that substitution is permissible however in case at hand already substitution was done in the year 2010 and was validated till next 10 years. It is apparent that without notice merely by relying on the Clause 21 of the GR dated 21.09.2017, the name of petitioner no.2 was removed.

6. Since the substitution was done in the year 2010 and by the time, now, this Court has also validated the substitution, we see no justification for removal of the name of petitioner no.2 from the waiting list. In the circumstance, we are inclined to allow the petition and we do so accordingly.

7. We directed the respondents to reinsert the name of petitioner no.2 in the register maintained for making of compassionate appointment and consider name of petitioner no.2 for being appointed to a suitable posts on compassionate basis as per eligibility and seniority.

8. Rule is made absolute in the above terms. No costs.

(SMT. M.S. JAWALKAR, J.)

(VINAY JOSHI, J.)

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