



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

50 WRIT PETITION NO. 2927 OF 2025

ABHISHEK NARAYANRAO ANEKAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Dr. Nandedkar Sahebrao G.

AGP for Respondents: Mrs. S.S. Joshi

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CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 04.03.2025

PER COURT : (MANGESH S. PATIL J.)

Heard the learned advocate for the petitioner.

2. The petitioner is seeking compassionate appointment and is coming with following substantive prayer:

*“C) To quash and set aside the decision taken by the management dated 06.09.2023 **Exhibit-N**, further the respondent No. 3 Management be directed to issue appointment order to the petitioner as a Junior Clerk forthwith in respondent No. 4 school on compassionate ground in place of his father by issuing writ of mandamus or any other appropriate writ or directions as the case may be.”*

3. The learned advocate for the petitioner submits that the petitioner was never extended an opportunity before the impugned decision was taken, refusing to appoint him. He submits that he was called upon by the management but was not extended any opportunity of being heard and the management has resorted to rejection of his request arbitrarily. He submits that the petitioner is coming from economically backward and poor family. There is no income source. The respondent-management was not

considering his application. He had moved the Education Officer. In spite of his directions, the management did not budge. The petitioner had to approach this Court in Writ Petition No. 14597/2019. This Court had directed his proposal to be considered by the management within four weeks. Since the management still did not obey the directions, a contempt proceeding had to be taken out. A bailable warrant was required to be issued and ultimately under such pressure the management, in all probability, has taken the decision vindictively. He submits that during pendency of the contempt proceeding, by seeking time to file a reply, a WhatsApp message was forwarded to him on 31.08.2023. By a letter dated 01.09.2023, he was called upon to remain present on 02.09.2023 between 12 noon and 1 p.m. Since the petitioner was out of station, he could not appear and straightway, by the impugned communication dated 06.09.2023 appointment has been refused. He submits that such rejection is arbitrary and capricious and undermines the petitioner's legitimate right to seek appointment on compassionate ground.

4. Obviously, since it is a matter of compassionate appointment, this Court is supposed to take a pragmatic view even while exercising the powers under Article 226 of the Constitution of India. However, it appears that the petitioner does not deserve any such indulgence in the peculiar facts and circumstances as would be discussed herein after.

5. It does appear that after long persuasion and repeated directions of this Court that the management finally took the impugned decision on 06.09.2023, refusing to appoint the petitioner on compassionate ground. However, it cannot be overlooked that in spite of the petitioner having been called upon to respond to the queries as mentioned in the impugned order, initially he refused to receive a copy of the communication, whereby he was called upon to respond to few queries in respect of the financial status of the family. On his failure to do so, the management had forwarded him a WhatsApp message, which forms part of the petition (**Exhibit L**) collectively.

Pertinently, in spite of a specific reference in the impugned order that by the communication dated 30.08.2023, an explanation was sought from the petitioner regarding the financial status of the family and in spite of the petitioner being forwarded a scanned copy via WhatsApp, the petitioner has conveniently chosen not only to respond to the queries but even has conspicuously omitted to place on record a typed copy of the communication received by him on WhatsApp. The photo copies of the screenshot placed at **Exh. L-M** are absolutely illegible. The learned advocate for the petitioner could not assign a plausible reason for not annexing a typed copy of the communication.

6. Taking into account the fact that the impugned order expressly mentions that particulars of the financial condition of the petitioner were mentioned in the communication dated 30.08.2023 and finding that the petitioner's family is well off and is not in need of any employment and having found to have sufficient source of income has refused appointment, simultaneously, observing that not a single post is vacant.

7. In our considered view, the petitioner is not entitled to play hide and seek and is not entitled to invoke discretion under Article 226 of the Constitution of India.

8. The writ petition is dismissed.

(PRAFULLA S. KHUBALKAR J.)

(MANGESH S. PATIL, J.)

mkd/-