

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3067 OF 2025

Krutika Jagdish Bhoir

...Petitioner

Versus

The Zilla Parishad, Palghar & Ors.

...Respondents

Mr. Vikram Walawalkar a/w Mr. Amey Sawant, Advocate for the Petitioner.

Mr. Ajit M. Savagave a/w Ms. Samruddhi Kulkarni, Advocate for Respondent No.1/Z.P.

Mr. S.P. Kamble, AGP for Respondent No.4/State.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 4th MARCH, 2025

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P.C. :-

1. We have considered the submissions of the learned Advocates for the respective sides. The learned Advocate for the Zilla Parishad has vehemently opposed this Petition and points out the history of litigation in Writ Petition No. 14431 of 2018 and group of matters, wherein this Court has passed orders on 18th December, 2018 and 3rd September, 2024.

2. The only issue that needs adjudication in this matter is with regard to the nomination of the present Petitioner in place of

her brother for compassionate appointment. There is no dispute that the mother of the present Petitioner passed away on 13th June, 2006. The Petitioner and her brother, Aniket, were minors. After the son became an adult, an Application was tendered for compassionate appointment. Subsequently, the son expressed his disinclination and the name of the present Petitioner was substituted in place of her brother. It is undisputed that the present Petitioner was appointed as a Sr. Assistant (Class-III) at Panchayat Samiti, Palghar after bifurcation from the Zilla Parishad, Thane, on 21st February, 2017.

3. The Petitioner was issued with a show cause notice, which was stayed by this Court vide order dated 18th December, 2018 [Coram : A.S. Oka (as his Lordship then was) and Sandeep K. Shinde, JJ.]. Thereafter, vide an order dated 3rd September, 2024, this Court [Coram : Nitin Jamdar (as his Lordship then was) and M.M. Sathaye, JJ.], disposed off the Petitions by permitting the Petitioners to participate in the hearing. By an order dated 16th January, 2025, impugned in this Petition, the Chief Executive Officer, Zilla Parishad, Palghar noticed certain irregularities having been committed by the Employees of the Panchayat Samiti. In the case of the present Petitioner, the only ground taken by the Zilla

Parishad is that the brother, Aniket was delisted and the name of the present Petitioner was substituted in his place in the waiting list of eligible candidates for compassionate appointment. According to the CEO, Zilla Parishad, there is no provision for substitution.

4. The learned Advocate for the Zilla Parishad has vehemently opposed this Petition and prays for the dismissal of the Petition with heavy costs. He submits that Aniket should have been given the chance to be inducted in compassionate appointment and the name of the present Petitioner could not have been substituted.

5. We find that the Zilla Parishad has misdirected itself. The Government Resolution dated 20th May, 2015, was introduced to impose a bar on substitution of the name for compassionate appointment. This Court dealt with a challenge to the same in *Dnyaneshwar Ramkishan Musane V/s. State of Maharashtra, (2020) 5 Mh.LJ. 381* and it was concluded by this Court that the clause introducing a prohibition on substitution of a name, is *ultra vires* Article 14 of the Constitution of India. Consequentially, the said clause was struck down.

6. Considering that there was a conflict of opinion, the matter was referred to the Full Bench of this Court at Nagpur in Writ Petition No.3701 of 2022 and Other group of Petitions (*Kalpana Wd/o. Vilas Taram & Anr. V/s. The Sate of Maharashtra & Ors.*). Vide Judgment dated 28th May, 2024, the view taken in *Dnyaneshwar Ramkishan Musane (Supra)*, was sustained and it was concluded that substitution in certain circumstances is permissible.

7. In the light of the above, we do not find any legal impediment in continuing the service of the Petitioner on compassionate basis. She has put in almost eight years of service and has settled down in Employment. Barring some irregularities at the end of the Zilla Parishad, Thane, there is no legal infirmity so as to question the validity of the Petitioner's appointment on compassionate basis.

8. In view of the above, this **Writ Petition is allowed**. The impugned order dated 16th January, 2025, refusing to approve the appointment of the Petitioner on compassionate basis, is quashed and set aside.

(ASHWIN D. BHOBE, J.) (RAVINDRA V. GHUGE, J.)