



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO. 1648 OF 2026

Niraj Dinesh Surwase

VERSUS

The State Of Maharashtra And Another

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Mr. Reddy Avinash M, Advocate for the Petitioner

Mr. R. S. Wani, AGP for Respondent State

Mr. Uttam B. Bondar, Advocate for Respondent No.2

CORAM : SMT. VIBHA KANKANWADI AND
NEERAJ P. DHOTE, JJ.

Dated : 16th April, 2026

PER COURT :-

1. The present petition has been filed challenging the communication/order dated 25.06.2025 passed by Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Latur, and also seeking a direction to the respondents to include the name of the petitioner in the wait-list in place of his mother for the purpose of appointment on compassionate basis.

2. What is not in dispute is that, one Late Mr. Dinesh Shravan Surwase, who is father of the present petitioner, expired on 02.05.2024. At the time of his death, he was serving as Assistant Teacher in Zilla Parishad Primary School, Ramwadi(Pan), Kendra Pangaon, Tq. Renapur, District Latur. Thus, his death was in harness and thereafter, the petitioner's mother Smt. Rekha Dinesh Surwase had made an application for appointment on compassionate basis to the

suitable post on 25.09.2024 as per the then policy prevailing. The name of Smt. Rekha was included in the wait-list. However, her name came to be deleted in view of her attaining the age of 45 years. In view of Government Resolutions dated 22.08.2005, 06.12.2010 and 21.09.2017, she could not be appointed till completion of age 45 years.

3. The petitioner has come with the case that he was aged 14 years when his father expired. By application dated 28.08.2018, Smt. Rekha Surwase requested Respondent No.2 to substitute the name of the petitioner in her place. The petitioner states that on 28.08.2018, he was on the verge of completing 18 years of age as his birth date is 17.10.2000. The petitioner now contends that he has completed his education and obtained degree of elementary education D.Ed in the year 2023. There was no response to the application made by Smt. Rekha Surwase on 28.08.2018 and therefore, the petitioner made representation to Respondent No.2 on 24.04.2024. It was also fell on the deaf ears of Respondent No.2. Therefore, he again made a detailed representation on 20.05.2025. The said representation has been rejected by communication dated 25.06.2025, stating that there is no such provision of substitution. Therefore, the petitioner has approached this Court.

4. The learned AGP waives notice for Respondent No.1 and the learned Advocate Mr. Uttam Bondar waives for Respondent No.2.

Heard the learned Advocate for the petitioner as well as the respondents.

5. The learned Advocate for the petitioner has taken us through the documents, which include the copy service book of his father to indicate that his father was in service at the time of his death; the death certificate of Late Dinesh Surwase, the wait-list of the year 2014-15, obtained under an application dated 16.07.2025, the Communication on behalf of Respondent No.2 dated 27.06.2025 to Smt. Rekha Surwase thereby informing that her name has been deleted in view of her attaining the age 45 and then the application by Smt. Rekha Surwase dated 28.08.2018 for substitution of the name of the petitioner in her place alongwith the educational qualification of the petitioner. The copies of representations, Government Resolutions and the impugned order are placed on record.

6. The learned Advocate for the petitioner relies on the decision of the Full Bench of this Court, Bench at Nagpur in **Kalpana wd/o Vilas Taram and others Vs. The State of Maharashtra**, Writ Petition No. 3701 of 2022 with companion matters, decided on 28.05.2024, wherein the Full Bench has taken note of all the pronouncements, especially in view of the following two questions:

- (i) Considering the object of compassionate appointment, to provide immediate succour to the family of the deceased

employee who dies in harness, as is spelt out in Umesh Kumar Nagpal (supra), Nilima Raju Khapekar (supra) and Debabrata Tiwari (supra), whether the view taken in Dnyaneshwar Musane (supra) and in other similar matters as indicated above would be correct?

- (ii) Whether the policies of the State, which provide for creating a wait list of the candidates for compassionate appointment and in cases permits substitution, even on account of crossing a particular age limit of 45 years is contrary to the object and purpose for which a compassionate apportionment has to be granted?

The question No. (ii) was then sub-divided in two following parts :

- (a) Whether the policy of the State, which provides for creating a list of candidates for compassionate appointment is contrary to the object and purpose for which a compassionate appointment has to be granted?
- (b) Whether the policy of the State, which permits substitution even on account of crossing particular age limit of 45 years is contrary to the object and purpose for which a compassionate appointment has been granted?

7. While answering Question No. (ii), especially question (ii)(b), answered "seeking substitution of the name of another member in place of a member who has applied, on account of crossing the age limit of 45 years is not contrary to the object and purpose for which compassionate appoint must be granted." The observation is in the light of the fact that the purpose of wait list in relation to

compassionate appointments is different than the purpose stated. The wait list in the matter of compassionate appointment is nothing but a list of aspirants who are in line, which is maintained on the basis of the date of application. Such list doesn't have any fixed life. In order to have transparency, the procedure of maintaining the list is prescribed under various Government Resolutions. Compassionate appointment is a concession and not a vested right and cannot be claimed by inheritance.

8. Here, we would like to add that definitely, the purpose of making such provision for appointment on compassionate basis is to make the family available a livelihood immediately when the employee dies in harness. Now, in the present case also, it can be seen that Smt. Rekha Surwase had made the application within the time limit that was prescribed. Her application was never rejected on the ground that she does not possess qualification even for the post of Class-IV. That means, somewhere, if the post had been available, she could have been accommodated, but we may presume here that, as the post was not available, she could not be adjusted till the age of 45 years. That does not mean that then the family has no right or the right of heirs of the employee who dies in harness gets extinguished in such event. The substitution is permissible. In fact, the decision of the Full Bench ought to have been considered by Respondent No.2 before passing the

impugned communication dated 25.06.2025.

9. Hence, we find the communication dated 25.06.2025 contrary to law and, therefore, we set aside the said communication, we allow the petition by directing Respondent No.2 to include the name of the present petitioner in the wait-list in place of his mother Smt. Rekha Dinesh Surwase and whenever the tern comes and post is available, then the petitioner's candidature be considered for appointment on compassionate basis as per the prevailing Government Resolutions. With these directions, we dispose of the writ petition. No order as to costs.

(NEERAJ P. DHOTE, J.)

(SMT. VIBHA KANKANWADI J.)