



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4265 OF 2025

Sumit Bhushankumar @
Bhushan Patle
Aged : 29 Years, Occu : Nil
R/o Ayodhya Nagar, Ring Road,
Tq. & Dist. Gondia

...PETITIONER

VERSUS

Chief Executive Officer
Zilla Parishad, Gondia,
Tq. And Dist. Gondia

...RESPONDENT

Shri M.G. Rathi, Advocate for petitioner
Shri V.M. Gadkari, Advocate for respondent

CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : **18.04.2026**
PRONOUNCED ON : **24.04.2026**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of parties.

3. The petition filed under Article 226 of the Constitution of India seeks quashing of the decision/action of the respondent, whereby it declared that the petitioner is permanently disqualified for compassionate appointment, and as a consequence of which his name was removed from the waiting list maintained for the same. It further prays for a declaration and a direction to the respondent to add the name of the petitioner as a qualified candidate in the final waiting list with the same seniority as was earlier.

4. The facts, as can be seen from the petition, are as under :

On 24.10.2003, the petitioner was legally adopted by his elder parents, i.e., Bhushankumar Patle and Janakibai Bhushankumar Patle. Said Bhushankumar Patle was the real elder brother of Bhojraj Patle, i.e., the biological father of the petitioner herein. Accordingly, on the even date, i.e., on 24.10.2003, a deed of memorandum of adoption was executed in the presence of the parties as also the witnesses. The petition also asserts that both Bhushankumar and Bhojraj were in employment with the respondent Zilla Parishad and retired as teachers.

5. On 08.07.2015, the adoptive father of the petitioner, i.e., Bhushankumar Patle, expired while in employment, leaving behind his wife Janakibai and the petitioner as his only legal heirs. It is the contention of the petitioner that, as per the policy of the State Government spelt out in the Government Resolutions dated 26.10.1994, 17.11.2016 and 21.09.2017, the petitioner is eligible for getting a compassionate appointment, he being the adoptive son of late Bhushankumar Patle. On 29.09.2015, i.e., after the death of Bhushankumar, the petitioner applied under the said policy for compassionate appointment.

6. Even though there was no requirement for registration of the adoption deed, on the suggestion of some well-wishers, the said memorandum of adoption was registered on 14.10.2015. The said registration was done on the basis of the memorandum of adoption executed way back on 24.10.2003. Accordingly, after the registration of the said adoption deed, the petitioner applied for change of name showing adoptive father therein. Therefore, a Gazette notification was issued on 01.03.2017 and on 02.04.2025 notifying the said change. On 17.03.2016, the Joint Civil Judge Junior Division, Gondia, passed a judgment in MJC No 60/2015

and issued a legal heirship certificate in favour of the petitioner and his adoptive mother certifying that they are the only legal heirs of the deceased Bhushankumar Patle. On 19.04.2020, the adoptive mother of the petitioner, namely, Janakibai, also expired. It is the contention of the petitioner that his name was duly entered into the list of candidates eligible for getting compassionate appointment from the year 2016, and it continued till the year 2021.

7. In the backdrop of these facts, on 12.11.2021, the petitioner received a communication from the respondent to attend its office for verification of the relevant documents. Such communications were also received by the petitioner on 11.03.2022 and 12.05.2023. In response to the said communications issued by the respondent's office, the petitioner attended the office and supplied all the relevant documents in support of his claim. However, the respondents, without considering the fact that the name of the petitioner was already included in the list published on 18.12.2024 has deleted the name of the petitioner with a remark that the death of the deceased employee has occurred on 08.07.2015, while the registration is of 09.10.2015. The respondent has therefore relied on various Government Resolutions and stated that since the

adoption deed is after the death of the deceased employee, the petitioner is permanently disqualified for compassionate appointment. It is this action of the respondent which is challenged in the present petition on the various grounds as raised in the petition.

8. We have heard Shri Rathi, the learned Counsel for the petitioner, and Shri Gadkari, the learned Counsel for the respondent.

9. Shri Rathi, learned Counsel for the petitioner, by taking us through the record of the matter, submits that there is no dispute regarding the fact that the name of the petitioner was entered in the year 2016 in the list of candidates for compassionate appointment, and the same continued till 2023. He submits that clause १० § of the Government Resolution dated 21.09.2017 clearly spells out that only when the documents as required for compassionate appointment are received by the office of the employer, in that eventuality, the name of the concerned candidate would be entered into the waiting list. It further provides that the name should be inserted in the waiting list on the same day when

the documents are received. It is therefore his submission that the fact that the name of the petitioner was entered into the waiting list way back in the year 2016 itself is a pointer that the respondent was satisfied that the petitioner is eligible for being granted a compassionate appointment.

10. He further submits that the respondents have clearly erred in permanently deleting the name of the petitioner from the list since there is no requirement in the Registration Act regarding registration of the adoption deed. He further submits that as per Section 17 of the Registration Act the adoption deed is not a compulsorily registrable document and therefore the reliance placed on the fact that the registration is subsequent to the death is clearly misconceived. He further states that the respondents failed to appreciate that the adoption of the petitioner was in the year 2003 itself and it was a valid adoption as per the provisions of Hindu Adoption and Maintenance Act. In nutshell, he submits that the action of the respondent is *de hors* the provisions of law and is liable to be quashed.

11. Per contra, the learned Counsel for the respondent opposes the contentions made by the petitioner. He submits that the object of granting compassionate appointment is to enable the family member of a deceased employee to tide over the sudden financial crises, and nobody can claim compassionate appointment by way of inheritance and as a right. He further submits that the action of the respondent cannot be faulted with since, admittedly, the petitioner continued to use his biological name even after the date of the alleged adoption deed, i.e., 2003, which is a pointer to the fact that the adoption deed was never executed/acted upon. He therefore prays for dismissal of the petition.

12. Having considered the contentions canvassed by the learned Counsel for the parties, the crux of the matter lies in the deed of adoption executed on 24.10.2003. We have perused the said deed of adoption, which is placed on record. The Hindu Adoptions and Maintenance Act, 1956, was brought into force to amend and codify the law relating to adoption and maintenance amongst Hindus. Section 5 of the said Act provides that the adoptions are to be regulated by Chapter 2 of the said Act. Section 6 of the Act

provides the requisites of a valid adoption. The said section is reproduced as under:

*“6. **Requisites of a valid adoption.** - No adoption shall be valid unless-*

(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption; and

(iv) the adoption is made in compliance with the other conditions mentioned in this Chapter.”

13. While Section 7 speaks about the capacity of a male Hindu to take in adoption, Section 8 speaks of said capacity of a female Hindu to take in adoption. Section 9 of the Act provides for persons who are capable of giving in adoption, while Section 10 provides persons who may be adopted. Section 11 of the said Act provides for other conditions for a valid adoption. Furthermore, Section 12 of the Act provides for effects of adoption, thereby specifying that an adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family. Section 17 which would be material for the said purpose

contemplates a presumption regarding registered documents relating to adoption. It is thus clear that there is no requirement in the said Act that the document of adoption requires compulsory registration. Section 17 only engrafts a presumption regarding the genuineness when a registered document relating to adoption is produced before the Court. Section 17 of the Registration Act speaks about documents of which registration is compulsory and enlists various documents therein. Section 18 of the Registration Act provides for documents of which registration is optional. It is thus clear that registration of adoption deed is not compulsory while it may be optional under Section 18.

14. Furthermore, Section 47 of the Registration Act provides for time from which the registered document operates. It provides that a registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the date of its registration. If all these sections are read conjunctively, in the backdrop of the fact that an adoption deed need not be compulsorily registerable, the said adoption deed would certainly operate from the date of its execution i.e. from time which it would have commenced to

operate if no registration thereof was required. As a necessary corollary it therefore follows that the deed of adoption would come into operation or would be operative from 24.10.2003 and not from the date when it was subsequently registered on 14.10.2015.

15. As has been rightly pointed out by the learned Counsel for the petitioner that only when the respondents were fully satisfied, the name of the petitioner was inserted in the list of eligible candidates from 2016 till 2023. This fact is a pointer to the satisfaction being reached by the respondent. We are therefore of the considered opinion that the action of the respondent cannot be countenanced with in view of above provisions of law mentioned by us supra. We therefore pass the following order.

ORDER

- i) The writ petition is allowed.
- ii) The decision/action of the respondent declaring the petitioner as permanently disqualified for compassionate appointment and thereby deleting his name from the waiting list of the candidates to be selected and appointed on the compassionate basis, is quashed and set aside.

iii) The respondent is further directed to restore the name of the petitioner as a qualified candidate in the final waiting list of the eligible candidates in its original position to be appointed on compassionate ground.

16. The writ petition is allowed in above terms. Rule is made absolute.

(NANDESH S. DESHPANDE, J.)

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

Jayashree..