



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

WRIT PETITION NO. 5261 OF 2025

1) **Sunil S/o Farida Meshram,**
Aged about 59 years, Occ: Retired,

2) **Karan S/o Sunil Meshram,**
Aged about 28 years, Occ.: Nil,

Both above R/o Ward No. 16,
Ramabai Ward, Rajura, Tehsil Rajura
and Dist. Chandrapur.

.... **PETITIONERS**

// VERSUS //

1) **Municipal Council Rajura,**
Through its Chief Officer,
Tahsil Rajura, District Chandrapur.

2) **Prashant S/o Kawaduji Waghmare,**
Aged About 30 years, Occ: Service,
R/o Behind Government Hospital,
Ward No. 2, Ambedkar Ward, Rajura,
Tehsil Rajura and Dist. Chandrapur.

.... **RESPONDENTS**

Mr. S. O. Ahmed, Advocate for Petitioners.
Dr. Renuka Sirpurkar, Advocate for Respondent No.1.
Mr. N. A. Chavhan, Advocate for Respondent No.2.

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

DATE ON RESERVING THE JUDGMENT : 20.02.2026
DATE ON PRONOUNCING THE JUDGMENT : 25.03.2026

JUDGMENT : (Per – M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule is made returnable forthwith. Matter is taken up for final hearing at the stage of admission by consent and request of the parties.

2. By this petition, the Petitioner is challenging the impugned order dated 17/06/2025, passed by the Respondent No. 1- Municipal Council, Rajura thereby appointing Respondent No. 2 on the post of Clerk (Class-III) instead of granting appointment to the Petitioner No. 2 (Son of Petitioner No. 1) as per the Government Resolution dated 24/02/2023.

3. It is submitted that the Petitioner No. 1 was appointed as Safai Kamgar/Sweeper with the Respondent No. 1 - Municipal Council, Rajura and he joined the services of Respondent No. 1 on 13/09/1996 in pursuance of the appointment order dated 05/09/1996.

4. It is further submitted that on 24/02/2023, a Government Resolution was issued by the Social Justice and Special Assistance Department, State of Maharashtra which is, in particular, issued with reference to the Safai Kamgar/Sweeper wherein one person from the family of Safai Kamgar/Sweeper could get employment by way of inheritance. Subsequent to

which, the Petitioner No. 1 made an Application dated 02/12/2024 to the Respondent No. 1 for his voluntary retirement and appointment of his son Petitioner No. 2, on his place as per the Lad-Page Committee's Recommendation.

5. The Petitioners further submitted that one Lalita Kawaduji Waghmare, who was also working as Safai Kamgar/Sweeper and was appointed by the Respondent No. 1 Municipal Council, Rajura vide appointment letter dated 28/10/1997, has also made an application dated 27/11/2024, for her voluntary retirement and appointment of her son namely Prashant Kawaduji Waghmare - Respondent No. 2 on her place to the Respondent No.1.

6. It is further contended by the Petitioners that as per the Seniority List dated 31/12/2024, maintained by Respondent No.1, the name of the Petitioner No. 1 is at Serial No. 8 as he was appointed in service on 13/09/1996 and the name of Lalita Kawaduji Waghmare (mother of the Respondent No. 2) is at Serial No. 11, as she was appointed on 28/10/1997 on the post of Safai Kamgar/Sweeper by the Respondent No. 1 Municipal Council, Rajura.

7. On 28/02/2025, the Petitioner No. 1 and Lalita Kawaduji Waghmare (mother of the Respondent No. 2) got voluntary retirement from their services vide order passed on 12/02/2025 by the Respondent No. 1 - Municipal Council, Rajura. Thereafter, the Petitioner No. 1 made applications to the Respondent No. 1 - Municipal Council, Rajura for grant of employment to his son Petitioner No. 2 at his place on 11/03/2025 and 07/04/2025 respectively, however no action had been taken by the Respondent No. 1 in this regard.

8. It is further submitted that further on 30/05/2025, the Petitioner No. 1, for the fourth time, made an Application to the Respondent No. 1 Municipal Council, Rajura and requested to grant employment to his son Petitioner No. 2 on the vacant post of Clerk (Class-III), by giving reference to the said Government Resolution dated 24/02/2023 and referring to the earlier Applications made by the Petitioner No. 1 in this context.

9. It is submitted that on 03/06/2025, the Respondent No. 1 Municipal Council, Rajura, through its Chief Officer, sent a proposal to the District Assistant Commissioner, Municipal

Council, Chandrapur mentioning that the Application of Lalita Kawaduji Waghmare for grant of employment to her son Respondent No. 2 is made prior in time than the Application of the Petitioner No. 1 for grant of employment to his son - Petitioner No. 2, therefore, the appointment in Class-III post (Clerk) be granted to son of Lalita Kawaduji Waghmare (Respondent No. 2) and the name of the Petitioner No. 2 be kept in the waiting list.

10. Owing to this, on 12/06/2025, the Petitioner No. 1 again made an Application to the District Collector, Chandrapur and by reproducing the contents of the Application dated 30/05/2025 as mentioned above, requested to grant appointment to his son Petitioner No. 2 on the post of Clerk (Class-III), as he is eligible for the same and also in respect of the seniority of the employee as per Clause 7.1 of the Government Resolution dated 24/02/2023.

11. That on 17/06/2025, the Respondent No. 1- Municipal Council, Rajura, through its Chief Officer, has issued the impugned order of appointment and thereby appointed the

Respondent No. 2 on the post of Clerk (Class-III) by giving reference to the Government Resolution dated 24/02/2023.

12. *Per contra*, the Respondent No.1, in its reply, contended that, a perusal of the Clause 7.1 of the Government Resolution dated 24/02/2023 shows that the concerned authority is expected to consider the educational qualifications of legal heirs of such employees who wish to seek the benefit of employment, with a rider that the employees seeking such a benefit should be reflected on the seniority list of the concerned establishment. There is no mention to any preference being given to the legal representatives of such employees as per their *inter se* seniority as claimed by the Petitioners.

13. The Respondent No. 1 further contended that, the Petitioners have not made a specific prayer in the prayer clause of the present petition seeking the appointment of the Petitioner No. 2 on the aforesaid post of Clerk (Class-III) and on this ground alone the Petition deserves to be dismissed.

14. Heard learned Counsel for the parties at length and carefully examined the pleadings and documents on record.

15. It is admitted fact that the Petitioner No.1 came to be appointed on 05/09/1996 and joined his duties on 13/09/1996. The application for voluntary retirement was submitted by the Petitioner No.1 on 02/12/2024 and also requested for appointment of his son as per Lad-Page Committee recommendations. Whereas, mother of Respondent No.2, who came to be appointed on 28/10/1997, applied for voluntary retirement on 27/11/2024 and also requested for appointment of her son.

16. It is contention of the Petitioners that in view of the Government Resolution dated 24/02/2023, specifically Clause No.7.1, the Government or Local Government, Municipal Corporation and Municipal Council etc. has to maintain a seniority list and provide to the legal heirs of Safai Kamgar the post of Class-III or Class-IV, as per their qualification. It is further contention of the Petitioner No.2 that his father was senior to the mother of Respondent No.2, in view thereof, he is entitled for the appointment on the post of Clerk of which he is holding qualification. So far as the Clause 7.1 is concerned, it will come into play if the employee retired after his due service on

superannuation. Here, the Petitioner No.1 as well as the mother of Respondent No.2, both have applied for voluntary retirement. The application filed by mother of Respondent No.2 is dated 27/11/2024, whereas the Petitioner No.1 applied for voluntary retirement on 02/12/2024. Though they stood retired on the same day, their applications in priority were considered by the Department of Municipal Council. We do not see any reason to held it as illegal or improper. If there was no application for voluntary retirement filed by the Petitioner No.1, there would not have been any occasion to appoint the Petitioner No.2. If it is presumed that there is only application for voluntary retirement dated 27/11/2024 and there is no other application as in the present case, there would not be any question of seniority of employees. The application is filed by the Petitioner No.1 on 02/12/2024. The claim of Respondent No.2 is on higher footing than the Petitioner No.2.

17. As such, the Petitioners are seeking relief of quashing and setting aside the impugned order of appointment passed in favour of Respondent No.2, however, we are of the considered opinion that there is no error in the appointment order issued in

favour of Respondent No.2, as application of mother of Respondent No.2 is earlier in point of time than the Petitioner No.1. The question of seniority would have come, if both the Petitioner No.1 and mother of Respondent No.2 stood retired on superannuation.

18. In view thereof, in our considered opinion, there is no illegality in the appointment of Respondent No.2, as his claim is earlier in point of time. As suggested, the Petitioner No.2 is required to accept any other post which is available and subsequently his claim can be considered, considering his educational qualification and post available for the Class-III posts in view of Clause 7.2.

19. Accordingly, the writ petition stands **dismissed**. No order as to costs. Pending application(s), if any, stand(s) disposed of.

(NANDESH S. DESHPANDE, J.)

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