

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1057/2021(S.B.)

- 1) Yukta D/o Kailash Kowe,
Aged : 18 yrs., Occ. Student,
R/o. Kanvar Nagar, Sindhi Camp,
Arni Road, Yavatmal.

- 2) Aarti Wd/o Kailash Kowe,
Aged : 37 yrs, Occ. Housewife,
R/o. Kanvar Nagar, Sindhi Camp,
Arni Road, Yavatmal.

Applicants.

Versus

- 1) State of Maharashtra
through its Secretary,
Department of Revenue,
Mantralaya, Mumbai.

- 2) The Collector,
Collectorate Office, Civil lines,
Yavatmal.

- 3) Joint District Registrar Grade-1,
Office of Collector,
New Administrative Building,
Yavatmal.

Respondents

Shri N.R.Saboo, Mrs.K.N.Saboo and A.P.Barahate Ld. counsel for the applicants.
Shri S.A.Sainis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 7th February 2023.

JUDGMENT

Judgment is reserved on 25th January, 2023.

Judgment is pronounced on 7th February, 2023.

Heard Shri N.R.Saboo, learned counsel for the applicants and Shri S.A.Sainis, learned P.O. for the Respondents.

2. Case of the applicants is as follows.

Kailash Kowe died in harness on 02.04.2015. He was working as Junior Clerk on the establishment of respondent no.3. Applicant no.2 is his wife and applicant no.1 is their daughter. Applicant no.2 submitted an application dated 29.04.2015 (Annexure A-2) for her appointment on compassionate ground. Her name was entered on the wait list. By application dated 09.03.2017 (Annexure A-3) applicant no.2 sought to substitute her claim by claim of her daughter, applicant no.1 as she, applicant no.2, was not keeping well. By communication dated 23.03.2017 (Annexure A-5) applicant no.2 was informed that since applicant no.1 was minor her claim by way of substitution could not be considered. On 13.10.2021 applicant no.2 again applied vide Annexure A-6 for substitution as applicant no.1 had become major on 13.09.2021. Application (Annexure A-6) was turned down by the impugned communication dated 27.09.2021. The applicants were informed that

Annexure A-6 could not be considered for want of enabling provisions in the applicable G.Rs. / policy. Hence, this O.A.

3. In their reply also respondents 2 and 3 have taken a stand that the substitution as sought by applicant no.2 cannot be allowed because there is no provision which enables the respondents to substitute name of applicant no.2 by name of applicant no.1.

4. The issue of substitution is decided by the Hon'ble Bombay High Court in Judgment dated 12.12.2022 in Writ Petition No.1903/2022 by holding thus-

We find that the reliance placed by respondent no.4 on the Government Resolution dated 20.05.2015 to reject the request of the petitioner is against the law laid down by the coordinate bench of this Court in the case of *Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra and Ors.* wherein Government Resolution dated 20.05.2015 to the extent of prohibiting the substitution of name, has been quashed. The petitioners have also relied upon judgment in the case of *Jayesh s/o Jivan Dange Vs. The State of Maharashtra, through its Secretary Rural Development Department, Mantarlaya, Mumbai and Ors.* wherein the coordinate bench of this Court, of which one of us (A.S.Chadurkar, J.) was a member, by referring to the

judgment of Dnyaneshwar's case *supra* observed that the substitution of name of the petitioner therein could not have been rejected by placing reliance upon Government Resolution dated 20.05.2015.

Hence, the order.

ORDER

The O.A. is allowed in the following terms-

The impugned order dated 27.09.2021 (Annexure A-7) is quashed and set aside. The respondents are directed to substitute the name of applicant no.1 in place of her mother, applicant no.2 in the wait list prepared for granting appointment on compassionate ground, and consider claim of applicant no.1 on its own merits. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 07/02/2023

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J) .
Judgment signed on : 07/02/2023.
and pronounced on