

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 478 OF 2023

DISTRICT:- LATUR

Vishwajit S/o Vithalrao Udate)
Age: 19 years, Occup: Education,)
R/o: Dinathnagar, Save wadi,)
Latur, Tq & Dist. Latur,)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
Maharashtra State,)
Mantralaya, Mumbai-32.)
- 2. The Special Inspector General of Police**)
Nanded Range, Nanded.)
- 3. The Superintendent of Police,**)
Latur, Dist. Latur.) ...**RESPONDENTS**

APPEARANCE : Shri K.G. Salunke, learned counsel
for the applicant.
: Shri D.M. Hange, learned Presenting
Officer for the respondent authorities.

CORAM : **Justice Shri V.K. Jadhav, Member (J)**

DATE : **18.11.2024.**

O R D E R

Heard Shri K.G. Salunke, learned counsel for the
applicant and Shri D.M. Hange, learned Presenting Officer for

the respondent authorities finally with consent at admission stage.

2. The deceased father of the applicant was serving as a Police Head Constable in the office of respondent No.3. Undisputedly, before attaining the age of superannuation, the father of the applicant died on 03.03.2020.

3. The mother of the applicant has filed the representation on 02.06.2020 for compassionate appointment for the applicant, who was minor at that time. Further, after attaining the age of majority, the applicant has also applied on 22.12.2022 to the respondent No.3 for compassionate appointment. By impugned order dated 13.04.2023 (Annexure 'A-6') application/representation submitted by the applicant came to be rejected solely for the reason that his deceased father, who was working as a Police Head Constable, had no Caste Validity Certificate and in terms of G.R. dated 21.12.2019 the deceased father of the applicant was required to be kept on supernumerary post for want of Caste Validity Certificate. In terms of G.R. dated 14.12.2022 such an employee, who is kept on supernumerary post, is neither entitled for promotion nor compassionate

appointment after his retirement or death as a case may be to his legal heirs. Thus considering the G.R. dated 14.12.2022, the respondent No.3 has rejected the application submitted by the applicant seeking compassionate appointment.

4. It further appears that so far as (i) Shri Kailas Vishwanath Udate, (ii) Shri Vishweshwar Kailas Udate, (iii) Kum. Vaishnavdevi Kailas Udate, (iv) Kum. Kundandevi Kailas Udate, (v) Kum. Prerna Prabhakar Udate, (vi) Shri Vishnukant Prabhakar Udate (vii) Shri Baliram Madhavrao Udate, (viii) Shri Vithalrao Anandrao Udate and (ix) Shri Siddhant Prabhakar Udate are concerned, their proposals were forwarded by their concerned departments and their claim came to be rejected by the then Caste Scrutiny Committee, Nashik by order dated 19.08.1996. It further appears that the said applicants had challenged the said order dated 19.08.1996 passed by the Caste Scrutiny Committee, Nashik by filing a common Writ Petition No. 6848/2011 and by order dated 25.11.2011 the Hon'ble High Court of Bombay has remanded the matter to the Caste Scrutiny Committee for reassessment. Accordingly, all those applicants including the father of the applicant had appeared before the Caste Scrutiny Committee on 05.12.2011.

However, their proposals for reassessment as directed by the Hon'ble High Court was kept pending for long period and therefore they were constrained to approach the Hon'ble High Court of Bombay, Bench at Aurangabad again by filing the Writ Petition No. 1066/2021 and accordingly, by order dated 20.01.2021 the Hon'ble High Court of Bombay, Bench at Aurangabad has directed the Caste Scrutiny Committee, Aurangabad to decide the same in a time bound manner. Thus, by order dated 25.11.2021 their caste claim was invalidated by the Caste Scrutiny Committee, Aurangabad.

5. Being aggrieved by the same, out of those employees Kum. Vaishnavdevi D/o Kailas Udate, Shri Vishweshwar S/o Kailas Udate, Kundandevi D/o Kailas Udate and Vishnukant Kailas Udate have filed the Writ Petition No. 2865 of 2022, one Kailas Vishwanath Udate has filed Writ Petition No. 14724/2021 and Siddhant Prabhkar Udate and Prerna D/o Prabhakar Udate have filed Writ Petition No. 3225/2022 before the Hon'ble High Court of Bombay, Bench at Aurangabad. The Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad by order dated 08.08.2023 has partly allowed the aforesaid Writ Petitions and quashed and set aside the order dated 25.11.2021 passed by the

respondent No.2 therein i.e. the Caste Scrutiny Committee and directed the Caste Scrutiny Committee to issue immediately the Tribe Validity Certificates to the petitioners as belonging to 'Koli Mahadev' (Scheduled Tribe) and the same shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.

6. Learned counsel for the applicant submits that so far as the initial proceedings disposed of by the Caste Scrutiny Committee, Aurangabad by order dated 25.11.2021 is concerned, the father of the applicant was no more till that time, but shown to have been remained absent in the proceeding. Further, even though the other applicants who were aggrieved by the said order dated 25.11.2021 had approached to the Hon'ble High Court of Bombay, Bench at Aurangabad by filing the Writ Petition No. 2865 of 2022, Writ Petition No. 14724/2021 and Writ Petition No. 3225 of 2022 respectively, the father of the applicant was no more and therefore, no Writ Petition was filed on his behalf.

7. Learned counsel for the applicant submits that all the petitioners in the aforesaid Writ Petitions have got the Tribe Validity Certificate in terms of the order dated

08.08.2023 passed by the Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad, however, no such certificate has been issued in favour of the deceased father of the applicant who shown to have been remained absent in the proceedings before the Caste Scrutiny Committee, when in fact he was no more at that time.

8. The present applicant had approached the Hon'ble High Court of Bombay, Bench at Aurangabad by filing Writ Petition No. 8161/2024 for declaration that his father belongs to the 'Koli Mahadev' (Scheduled Tribes) category. The Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad has partly allowed the aforesaid Writ Petition and quashed and set aside the order to the extent of deceased father of the petitioner, late Vithalrao Anandrao Udate. It is also held that akin to the order passed by the Co-ordinate Bench, if the claim of the petitioner or any other persons, who are similarly situated, is/are reopened and they suffer an adverse order, the law laid down in **Shweta Balaji Isankar Vs. State of Maharashtra and others, 2018 SCC OnLine Bom 10363**, would be squarely applicable to the case of the deceased father of the petitioner.

9. These subsequent developments post impugned order dated 13.04.2023, the respondent No.3 has no occasion to consider the same. The applicant at present has filed detailed application/representation dated 16.10.2024 along with all the relevant documents before the respondent No.3.

10. Learned counsel for the applicant submits that the purpose of filing this Original Application would be fulfilled to some extent, if the directions are given to the respondent No.3 to consider the subsequent developments and pass the appropriate order in a time bound manner.

11. Learned Presenting Officer submits that in the event if this Tribunal is inclined to give direction to the respondent No.3, the respondent No.3 shall be given liberty to decide the same on its own merits.

12. In view of above, this Tribunal expects and hopes that the respondent No.3 i.e. the Superintendent of Police, Latur will consider all the subsequent developments elaborately discussed above and the orders passed by Hon'ble High Court of Bombay, Bench at Aurangabad in the Writ Petitions as referred above and pass the appropriate order as

expeditiously as possible in a time bound manner. Hence, the following order:-

ORDER

- (A) The Original Application is hereby partly allowed.
- (B) The respondent No.3 is hereby directed to decide the application/representation dated 16.10.2024 filed by the applicant as expeditiously as possible preferably within the period of eight weeks from the date of receipt of this order by considering the observations made hereinabove, on its own merits.
- (C) In the event, if any adverse order is passed against the applicant, the applicant shall be at liberty to approach this Tribunal again.
- (D) In the circumstances, there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 18.11.2024

SAS O.A. 478/2023 Compassionate Appointment