



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 13703 OF 2025 (S-RES)

BETWEEN:

1. SMT R JAYALAKSHMI
W/O R ANJANAPPA,
AGED ABOUT 55 YEARS
WORKING AS NURSERY TEACHER (2007-TILL TODAY)
O/O BBMP NURSERY SCHOOL,
NEAR DINNUR MAIN ROAD,
OPP. GANESHA TEMPLE,
BENGALURU - 560 032.
R/A 17, 2ND A CROSS,
GUNDAPPA REDDY LAYOUT,
CHOLANAYAKANAHALLI, RT NAGAR,
BENGALURU - 560 032.
2. MANJUNATH A J,
S/O R ANJANAPPA,
AGED ABOUT 34 YEARS,
WORKING AS HIGH SCHOOL TEACHER
(2015-TILL TODAY)
O/O BBMP HIGH SCHOOL,
PILLANNA GARDEN,
BENGALURU - 560 084
R/A 17, 2ND A CROSS,
GUNDAPPA REDDY LAYOUT,
CHOLANAYAKANAHALLI, RT NAGAR,
BENGALURU - 560 032.

...PETITIONERS

(BY SRI. V. LAKSHMINARAYANA, SENIOR COUNSEL FOR
SMT. ANUSHA L., ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
VIDHHANA SOUDHA,
BENGALURU - 560 001
2. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY
URBAN DEVELOPMENT
BENGALURU
VIDHANA SOUDHA - 560 001
3. BRUHAT BENGALURU MAHANAGARA PALIKE
REPRESENTED BY COMMISSIONER,
NR SQUARE
BENGALURU - 560 002
4. THE SPECIAL COMMISSIONER (EDUCATION)
BRUHAT BENGALURU MAHANAGARA PALIKE
NR SQUARE,
BENGALURU - 560 002
5. THE CHIEF COMMISSIONER
GREATER BENGALURU AUTHORIT
HUDSON CIRCLE
BENGALURU - 560 002
6. THE COMMISSIONER
BENGALURU CENTRAL CITY CORPORATION
HUDSON CIRCLE
BENGALURU - 560 002
7. THE COMMISSIONER
BENGALURU EAST CITY CORPORATION
WHITEFIELD,
MAHADEVAPURA



8. THE COMMISSIONER
BENGALURU WEST CITY CORPORATION
RAJARAJESHWARI NAGAR, BBMP COMPLEX
9TH MAIN, 9TH CROSS, 2ND BLOCK
BENGALURU - 560 011
9. THE COMMISSIONER
BENGALURU SOUTH CITY CORPORATION
RV ROAD, SOUTH END CIRCLE
1ST BLOCK, BENGALURU - 560 041
10. THE COMMISSIONER
BENGALURU NORTH CITY CORPORATION
AMRUTHALLI MAIN ROAD
BELLARI ROAD
BENGALURU - 560 092

AMENDED THE CAUSE TITLE AS PER
ORDER DATED 27.04.2026

...RESPONDENTS

(BY SRI. G. RAMESH NAIK, AGA FOR R1 AND R2

SRI. B.L. SANJEEV, ADVOCATE FOR R3 AND R4 AND R5 - R10)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE GOVERNMENT ORDER DATED 07.09.2017 NO. NAE 33 MNG 2017 PASSED BY THE RESPONDENT NO. 2 (ANNEXURE-B) AND QUASH THE ORDER DATED 29.04.2025 ISSUED BY THE SPECIAL COMMISSIONER (EDUCATION) BBMP i.e., R4 BEARING NO. V.A.(SHI)/P. R/297/2025-26 (ANNEXURE-B1), IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioners have sought for the following reliefs;

" a) *Issue a Writ of Certiorari or any other writ quashing the Government Order dated: 07.09.2017 No. NAE 33 MNG 2017 passed by the Respondent No. 2 (ANNEXURE-B) and quash the order dated 29.04.2025 issued by the Special Commissioner (Education) BBMP I.e., R4 bearing No.V.A.(SHI)/P.R/297/2025-26 (ANNEXURE-B1), in the interest of justice and equity.*

b) *Issue a Writ of Mandamus directing the Corporation to regularize the services of the Petitioners on completion of 10 years of service on par with that of others;*

c) *Issue a Writ of Mandamus directing the Respondents to pay equal pay for equal work as per the decision of the Hon'ble Court Apex Court in AIR 2016 SC 5176 in term of Article 39D of the Constitution of India;*

d) *Issue a Writ of Mandamus directing the Respondents not to discriminate in the matter of absorption and payment of salary as it violates Article 14, 16, and 21 of Constitution of India;*

e) *Issue a Writ of Mandamus to the Respondent No.3 and the Government (R 1 & 2) to consider the cases of the Petitioners on completion of 10 years of service in*



extending the security of tenure and further the case of the Petitioners should also be considered on completion of 3 years from quasi-permanent to permanent posts in terms of the Rule 40-A and 40-B KCSR Rules and also in terms of 5 of the Karnataka Temporary Service Rules of 1967 as amended, and

f) Issue any appropriate a writ or order as deemed fit by this Hon'ble Court in the facts and circumstances of the case."

2. Heard learned counsel for the petitioners and learned AGA for respondent Nos.1 and 2, learned counsel for respondent Nos.3 to 10 and perused the material on record.

3. The issue in controversy is directly and squarely covered by the judgment of this Court in the case of **Sri. Raghavendra V and others Vs. The State of Karnataka and others - W.P.No.8346/2018 dated 06.04.2026**, wherein it is held as under:

"ORDER

In this petition, petitioners seek the following reliefs:

- "a) Issue of Writ of Certiorari or any other writ quashing the Government Order dated: 07.09.2017 No.NAE 33 MNG 2017 passed by the Respondent No.3 produced as Annexure-B.*
- b) Issue a writ of mandamus, directing the Respondents to place the resolution of the Corporation dated 09.08.2016 vide Annexure-J before the Standing Committee of Education to*



be included in the schedule of employment and implement the said resolution and to take further steps in terms of Section 88 of the KMC Act of 1976.

- c) Issue a writ of mandamus directing the Corporation to regularize the services of the Petitioners on completion of 10 years of service on par with that of others.*
- d) Issue a writ of mandamus directing the Respondents to pay equal pay for equal work as per the decision of the Hon'ble Court Apex Court in AIR 2016 SC 5176 in term of Articles 39D of the Constitution of India.*
- e) Issue a writ of mandamus to consider the cases of the Petitioners for regularization on par with that of others like – Revenue Department Social Security Employees as per the Government order dated 11.07.2017 and Morarji Desai School Teachers and Part-time Teachers Absorption Rules, 2010.*
- f) Issue a writ of mandamus directing the Respondents not to discriminate in the matter of absorption and payment of salary.*
- g) Issue a writ of mandamus to the Respondent No.3 and the Government (R1 & 2) to consider the cases of the Petitioners on completion of 10 years of service in extending the security of tenure and further the case of the Petitioners should also be considered on completion of 3 years from quasi-permanent to permanent posts in terms of the Rule 40-A and 40-B KCSR Rules and also in terms of 5 of the Karnataka Temporary Service Rules of 1967 as amended and*
- h) Issue any appropriate a writ or order as deems fit by this Hon'ble Court in the facts and circumstances of the case."*



2. *Briefly stated the facts giving rise to the present petition are as under:*

The petitioners have been working as Nursery, Pre-Primary, Primary and High School Teachers in Corporation Schools run by the respondent Nos.2 and 3 - BBMP as teachers are recruited by outsourcing. The petitioners have been working as teachers as stated supra for more than 25 years as on today. The petitioners approached this Court in W.P.No.27420/2016 and connected matters seeking regularisation of their service and the said petition was disposed of by this Court vide final order dated 28.11.2016 issuing certain directions to the respondent Nos.1 and 2 - State and the BBMP. It is the grievance of the petitioner that despite specific directions issued by this Court, in the aforesaid W.P.No.27420/2016 and connected matters, the respondent Nos.1 and 2 - State has once again rejected the claim of the petitioner for regularisation on the ground that the petitioners were employed through an outsourcing agency and as such, the petitioners are not entitled to regularisation. Aggrieved by the impugned endorsement/ communication/order at Annexure - B dated 07.09.2017 and seeking directions for their regularisation, petitioners are before this Court by way of the present petition.

3. *Heard learned Senior Counsel for the petitioner and learned AGA for respondent Nos.1 and 2 and learned counsel for respondent Nos.3, 5 and 6 to 11-BBMP and perused the material on record.*

4. *Respondent No.4- the outsourcing agency has been served with notice of the petition and has chosen to remain unrepresented and has not contested the petition.*

5. *In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned Senior Counsel for the petitioner invited my attention to the impugned order/communication in order to point out that the only reason assigned by the respondent Nos.1 and 2 - State in rejecting the request of the petitioner for regularisation is by holding that the petitioners having been employed by respondent No.4 - outsourcing agency, which had entered into an agreement with the respondent - BBMP, the petitioners are not entitled for regularisation. In this context, he would invite my attention to various judgments of the Hon'ble Apex Court and this Court including the judgment of the Hon'ble Apex Court in the*



case of **Dharam Singh & Ors Vs. State of UP & Anr – Civil Appeal No.8558/2018 – 19.08.2025**, in order to point out that even persons employed through outsourcing agency can seek regularisation. It is submitted that the aforesaid principle has been reiterated in the various judgments of Hon'ble Apex Court and this Court and the impugned endorsement deserves to be set aside and the respondent Nos.1 and 2 be directed to regularise the services of the petitioners in terms of the following judgments on completion of 10 years, which the petitioners have completed as on today.

6. In support of his submissions, he places reliance on the following judgments:

i) **Dharam Singh & Ors Vs. State of UP & Anr – Civil Appeal No.8558/2018 – 19.08.2025**

ii) **Pawan Kumar & Ors Vs. Union of India & Ors. – SLP (C) No.29214/2019 – 13.02.2026**

iii) **Mahendra Prasad Agarwal Vs. Arvind Kumar Singh – SLP (C) No.17141/2025 – 10.02.2026**

iv) **Bhola Nath Vs. State of Jharkhand and Ors – SLP (C) No.30762/2024 – 30.01.2026**

v) **Jaggo Vs. Union of India and Ors – SLP (C) No.5580/2024 – 20.12.2024**

vi) **Karnataka State Private College Stop – Gap Lecturers Association Vs. State of Karnataka and Ors – (1992) 2 SCC 29**

vii) **Bhagwan Das Vs. The Deputy Commissioner in W.P.No.4478/2022 dated 21.04.2024**

viii) **Shah Samir Bharatbhai & Ors. Vs. The State of Gujarat & Ors., in SLP(C) No.1347/2024 dated 22.08.2025.**

7. Per contra, learned counsel for the respondents would support the impugned order and submits that there is no merit in the petition and the same is liable to be dismissed.



8. *In support of their contentions, learned counsel for respondent Nos.3, 5 to 11 places reliance on the following judgments:*

i) *Kirloskar Brothers Ltd., Vs. Ramcharan and Ors - Civil Appeal Nos.8446-47/2022 dated 05.12.2022.*

ii) *Chief Executive Officer, Zilla Parishad Thane & Ors Vs. Santosh Tukaram Tiware & Ors – Civil Appeal No.8856/2022 dated 24.11.2022.*

iii) *M/s. Indraprastha Gas Limited Vs. Ambrish Kumar – W.P(C) No.3743/2013 dated 05.12.2025.*

9. *As can be seen from the principles laid down in the aforesaid judgments, the Hon'ble Apex Court and this Court have categorically held that even persons employed/appointed through outsourcing agencies by the BBMP are entitled to seek regularisation and mere labelling of employment is not a decisive factor, especially when the work is perennial in nature and the respondents and BBMP are not mere market participants, but constitutional employers, who cannot take shelter behind temporary labels for the purpose of declining grant of regularisation.*

10. *In **Dharam Singh's** case supra, the Hon'ble Apex Court has held as under:*

“13. As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not “full-time” employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.



14. *The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter on a mere technicality. The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about "rules" and "vacancy" while ignoring the core question of arbitrariness in the State's refusal to sanction posts despite perennial need and long service, cannot be sustained.*
15. *Therefore, in view of the foregoing observations, the impugned order of the High Court cannot be sustained. The State's refusals dated 11.11.1999 and 25.11.2003, in so far as they concern the Commission's proposals for sanction/creation of Class-III/Class-IV posts to address perennial ministerial/attendant work, are held unsustainable and stand quashed.*
16. *The appeal must, accordingly, be allowed.*
17. *Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the*



establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. *Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.*
19. *Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:*
 - i. ***Regularization and creation of Supernumerary posts:*** *All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission)*



shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

- ii. **Financial consequences and arrears:** *Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization /retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.*
- iii. **Retired appellants:** *Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgement.*
- iv. **Deceased appellants:** *In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated*



consistently with clause (i), within three months of this Judgement.

v. **Compliance affidavit:** *The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgement.*

20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling “reconsiderations,” and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of Civil Appeal No. 8558 of 2018 21 grace, but obligations under Articles 14, 16 and 21 of the Constitution of India.

11. In **Pawan Kumar’s** case *supra*, the Hon’ble Apex Court has held as under:



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“9. Besides the aforesaid aspects, we find that the law laid down by this Court in Jaggo (supra) supports the case of the appellants in their prayer for regularization. In paragraphs 13, 20, 21 and 26, it has been held as under:

“13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants’ termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.

20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a



scenario demanding fair regularization. In a recent judgement of this Court in Vinod Kumar and Ors. Etc. Vs. Union of India & Ors. 5, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgement have been reproduced below:

"6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra). 7. The judgement in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if



they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...”

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for



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temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades."

10. *The aforesaid observations are sufficient to hold that the Tribunal was not justified in denying relief to the appellants by relying upon the decision in Umadevi (3) and Ors. (supra). The High Court also erred in affirming the decision of the Tribunal. The appellants are entitled to similar reliefs as granted by this Court in Ravi Verma and Ors. (supra) as well as in Raman Kumar and Ors. (supra).*

11. *For all the aforesaid reasons, the judgment of the High Court dated 26.08.2019 in M.P. No.3460/2018 is set aside. The services of the appellants be regularized from 01.07.2006 on the same terms as made applicable in Ravi Verma and Ors. (supra) as well as in Raman Kumar and Ors. (supra). The benefits be released in favour of the appellants within a period of three months from today."*

12. *In **Mahendra Prasad Agarwal's** case supra, the Hon'ble Apex Court has held as under:*

"14. There is no doubt about the fact that the "consider jurisprudence", so routinely adopted these days and if we may use the expression - to throw the ball out of the Court, is counterproductive and harms the system.

15. When a claim of a right is legal and justified, relief must follow. The Constitutional or statutory remedies are not intended for academic discourse. If a case deserves relief, it must be granted then and there, unflinchingly if need be. Balancing of equities is not to be confused with avoiding or postponing the relief. These are not matters of law, but of its working and practice. Unlike law and its procedures, good



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practices that evolve over a period of time are far more precious than written laws, as it is in this practice that we see acceptance and internalization of the spirit of law. It is necessary to recognize, nurture and develop good practices which become habits. 9 These habits come from the shared belief, values and attitudes that breathe vitality into rule of law. Legal culture integrates collective beliefs, fostering habits. It is necessary and in fact compelling to keep our remedies simple, effective and efficient.”

13. In **Bhola Nath’s** case *supra*, the Hon’ble Apex Court has held as under:

13.5. Such a decision must necessarily be a conscious and reasoned one. An employee who has satisfactorily discharged his duties over several years and has been granted repeated extensions cannot, overnight, be treated as surplus or undesirable. We are unable to accept the justification advanced by the respondents as the obligation of the State, as a model employer, extends to fair treatment of its employees irrespective of whether their engagement is contractual or regular.

13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of “part-time”, “contractual” or “temporary” in perpetuity and thereby exploiting them by not regularizing their positions. In Jaggo v. Union of India, 10 this Court underscored that government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.

13.7. In Shripal v. Nagar Nigam, 11 and Vinod Kumar v. Union of India, 12 this Court cautioned against a mechanical and blind reliance on Umadevi (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that Umadevi (supra) cannot be employed as a shield to legitimise



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exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are “illegal” and those that are merely “irregular”, the latter being amenable to regularization upon fulfilment of the prescribed conditions.

13.8. In Dharam Singh v. State of U.P.¹³, this Court strongly deprecated the culture of “ad-hocism” adopted by States in their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.

13.9. The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.

13.10. In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State’s contention that the mere contractual nomenclature of the appellants’ engagement denudes them of constitutional protection. The State, having availed of the appellants’ services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.



FINAL CONCLUSION:

14. *In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:*

- I. *The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.*
- II. *Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.*
- III. *Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.*
- IV. *The State, as a model employer, cannot rely on contractual labels or mechanical application of Umadevi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.*
- V. *In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment."*

14. *In Jaggo's case supra, the Hon'ble Apex Court has held as under:*



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- “22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers’ rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.*
- 23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO’s Multinational Enterprises Declaration encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.*
- 24. The landmark judgement of the United State in the case of Vizcaino v. Microsoft Corporation⁷ serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers*



were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade longterm obligations owed to employees. These practices manifest in several ways:

- **Misuse of "Temporary" Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.



- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.
 - **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.
 - **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.
26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of



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employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi (supra)* to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. *In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."*

15. ***In Karnataka State Private College Stop-Gap Lecturers Association's*** case *supra*, the Hon'ble Apex Court has held as under:

"7. So far as these petitioners and teachers similarly situated are concerned, it could not be disputed that many of those teachers who appeared for selection in pursuance of the High Court order secured sufficiently high marks but they could not be regularised because the vacancies are said to be reserved. But what has been lost sight of is that



petitioners are seeking regularisation on posts on which they have been working and not fresh appointments, therefore, they could not be denied benefit of the High Court's order specially when no such difficulty was pointed out and it was on agreement by the respondents that the order was passed. No material has been brought on record to show that any action was taken prior to decision by the High Court against any institution for not following the reservation policy. To deny therefore the benefit of selection held on agreement by the respondents is being unjust to such selectees. Further the State of Karnataka appears to have been regularising services of ad hoc teachers. Till now it has regularised services of contract lecturers etc. It may not furnish, any basis for petitioners to claim that the State may be directed to issue similar order regularising services of teachers of privately managed colleges. All the same such policy decisions of government in favour of one or the other set of employees of sister department are bound to raise hopes and expectations in employees of other departments. That is why it is incumbent on governments to be more circumspect in taking such decisions. The petitioners may not be able to build up any challenge on discrimination as employees of government colleges and private colleges may not belong to the same class yet their claim cannot be negated on the respondents' stand in the counter-affidavit that the regularisation of temporary teachers who have not faced selection shall impair educational standard without explaining the effect of regularisation of temporary teachers of University and even technical colleges. Such being the unfortunate state of affairs this Court is left with no option but to issue following directions to respondents for not honouring its commitments before the High Court and acting contrary to the spirit of the order, and also due to failure of government in remaining vigilant against private management of the college by issuing timely directions and taking effective steps for enforcing the rules;

- (1) *Services of such temporary teachers who have worked as such for three years,*



including the break till today shall not be terminated. They shall be absorbed as and when regular vacancies arise.

- (2) If regular selections have been made the government shall create additional posts to accommodate such selected candidates.*
- (3) The teachers who have undergone the process of selection under the directions of the High Court and have not been appointed because of the reservation policy of the government be regularly appointed by creating additional posts.*
- (4) From the date of judgment every temporary teacher shall be paid salary as is admissible to teachers appointed against permanent post.*
- (5) Such teachers shall be continued in service even during vacations.”*

16. In **Bhagwan Das’s** case *supra*, Co-ordinate Bench of this Court has held as under:

“37. The question is as to whether the services rendered by the workmen through a contractor till 02.11.2006 and the subsequent services rendered to the Municipal Authority through an outsource agency could be taken note of for the purpose of considering regularization of the petitioners services under the principal employer.

38. This very aspect was considered by the Apex Court in Shripal & Anr v. Nagar Nigam, Ghaziabad⁴ [Shripal] and Jaggo v. Union of India and Others⁵ [Jaggo].

39. The Apex Court in no uncertain terms has recognized the system of contract labour/ out-sourcing as methods of avoiding direct recruitment. The relevant observations of the Apex Court in Jaggo (supra) are as follows:



“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers’ rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

24. The landmark judgment of the United States in the case of Vizcaino v. Microsoft Corporation - 97F.3d1187 (9th Cir. 1996) serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and



benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

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• Using Outsourcing as a Shield:

Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment."

The Apex Court has also specifically observed that the Judgment in Umadevi (supra) cannot be invoked to defeat the legitimate claims of the employees. The observations at para 26 and 27 reads as follows:

"26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly



sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."



40. *The same position has been reiterated in Shripal (supra) at the following paras of the Judgment:*

"11. Furthermore, the Employer's stance that there was never a direct employer-employee relationship is wholly unsubstantiated. If, in fact, the Appellant Workmen had been engaged solely through a contractor, the Employer would have necessarily maintained some form of contract documentation, license copies, or invoices substantiating the contractor's role in hiring, paying, and supervising these workers. However, no such documents have been placed on record. Additionally, the Employer has failed to establish that wages were ever paid by any entity other than its own Horticulture Department, which strongly indicates direct control and supervision over the Workmen's day-to-day tasks is a hallmark of an employer-employee relationship. Had there been a legitimate third-party contractor, one would expect to see details such as tender notices, contract agreements, attendance records maintained by the contractor, or testimony from the contractor's representatives. The absence of these crucial elements undermines the Employer's claim of outsourced engagement. In fact, it appears that the Workmen were reporting directly to the Horticulture Department officials, receiving instructions on their duties, and drawing wages issued under the Municipality's authority. This pattern of direct oversight and wage disbursement substantially negates the narrative that they were "contractor's personnel." Consequently, the discontinuation of their services carried out without compliance with statutory obligations pertaining to notice, retrenchment compensation, or approval under Section 6E of the U.P. Industrial Disputes Act, stands on precarious ground. The very foundation of



the Employer's defense (i.e., lack of an employer-employee relationship) is not supported by any credible or contemporaneous evidence.

12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long-serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent.

14. The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes



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spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement..."

17. In **Shah Samir Bharatbhai's** case *supra*, Hon'ble Supreme Court has held as under:

"4. Academicians, lecturers and professors are the intellectual backbone of any nation, as they dedicate their lives to shaping the minds and character of future generations. Their work goes far beyond delivering lessons—it involves mentoring, guiding research, nurturing critical thinking, and instilling values that contribute to the progress of society. However, in many contexts, the compensation and recognition extended to them do not truly reflect the significance of their contribution. When educators are not treated with dignity or offered respectable emoluments, it diminishes the value a country places on knowledge and undermines the motivation of those entrusted with building its intellectual capital. By ensuring fair remuneration and dignified treatment, we affirm the importance of their role and reinforce the nation's commitment to quality education, innovation, and a brighter future for its youth.

5. It is just not enough to keep reciting gurubramha gururvishnu gurdevo maheshwarah at public functions. If we believe in this declaration, it must be



reflected in the way the nation treats its teachers.

Xxxxx

31. The appellants were seeking parity of pay. The prayer for regularization, though made in the earlier rounds of litigation was never accepted. The facts of the present case are rather egregious. Assistant professors appointed on contractual basis during 2011 to 2025 have been working at abysmally low monthly emoluments for the last two decades. While there is no material whatsoever drawing out a distinction between the duties and functions performed by them and that of their colleagues appointed regularly or on ad hoc basis, they continue to draw monthly salary of Rs. 30,000/-."

18. In the instant case, the material on record clearly indicates that the petitioners have been working as teachers in Nursery, Pre-Primary, Primary and High School in corporate schools run by the BBMP and in the light of the principles laid down in the aforesaid judgments, merely because the petitioners were appointed as teachers through respondent No.4 - outsourcing agency, it cannot be said that the services of the petitioners cannot be regularised and the impugned order deserves to be quashed.

19. Insofar as the various contentions urged by the respondents in the statement of objections are concerned, except stating that the petitioners were contract employees and had been appointed through outsourcing agency, no other valid or sufficient ground has been made out by the respondents either in the statement of objections or in the impugned order so as to deny the benefit of regularisation in favour of the petitioners.

20. Under these circumstances, the various contentions urged by the respondent Nos.1 and 2 to deny the benefit of regularisation in favour of the petitioners cannot be accepted. In the result, I pass the following:



ORDER

- i) *The petition is hereby allowed.*
- ii) *The impugned order dated 07.09.2017 at Annexure- B is hereby quashed.*
- iii) *The respondents are directed to take necessary step to consider the regularization of the petitioners and pass appropriate orders on completion of 10 years of service by the petitioner within a period of 3 months from the date of receipt of copy of this order."*

4. Under these circumstances, I deem it just and appropriate to quash the impugned order dated 07.09.2017 vide Annexure B by directing the respondents to take necessary steps to consider the regularization of the petitioners and pass appropriate orders within a period of three months from the date of receipt of copy of this order and in accordance with law bearing in mind the order passed by this Court in ***V.Raghavendra's case supra*** and the judgments of the Apex Court referred to therein.

5. In the result, I pass the following:-

ORDER

- i) The petition is hereby ***allowed***.
- ii) The impugned order dated 07.09.2017 at Annexure- B is hereby quashed.



iii) The respondents are directed to take necessary step to consider the regularization of the petitioners and pass appropriate orders on completion of 10 years of service by the petitioner within a period of 3 months from the date of receipt of copy of this order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

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List No.: 1 SI No.: 90