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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4077 OF 2013
WITH
WRIT PETITION NO.10247 OF 2014
WITH
WRIT PETITION NO.10266 OF 2014

The Parbhani District Central
Cooperative Bank Ltd..

..Petitioner in all petitions.

-versus-

Vijaya Balasaheb Game. ..Respondent in WP/4077/2013
Hidayatulla Khan Rahimatulla Khan. ..Respondent in WP/10247/14
Sudhakar Sopanrao Kawarkhe. ..Respondent in WP/10266/14

...

Advocate for Petitioner : Shri Yadav Santosh R.

Advocate for Respondents : Shri A.V.Khande h/f Shri S D Tare and Shri
R.P.Dhase.

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 10th September, 2015

Per Court:

1 I have heard Shri Yadav, learned Advocate for the Petitioner/
Bank extensively. He has strenuously criticized the impugned judgments of
the Industrial Court by which the complaints filed by the Respondents
under the MRTU & PULP Act, 1971 have been allowed. Permanency with
consequential benefits barring monetary benefits have been granted w.e.f.
29.10.2012.

2 Shri Yadav submits that none of these Respondents were appointed by following the due procedure of law. No advertisement was published inviting applications for available posts. The entries of these Respondents in service can be squarely termed as a “Back Door Entry”. He relies upon the judgment of the Apex Court in the case of *Secretary, State of Karnataka v/s Umadevi* reported at **AIR 2006 SC 1806 : 2006(4) SCC 1.**

3 The learned Advocates for the Respondents have placed before this Court a copy of the judgment delivered by this Court **dated 08.10.2014 in Writ Petition No.3382/2014** (*The Parbhani DCC Bank v/s Rangnath Bhauro Chokhat*) concerning the Petitioner herein and on an identical set of facts. This Court has concluded that the Writ Petition filed by the Petitioner Bank was devoid of merit and was, therefore, dismissed.

4 The learned Advocates for the Respondents have pointed out an order dated 16.01.2015 delivered by this Court in Writ Petition No.3560/2014 and other connected Writ Petitions in which the present Petitioner Bank was also the Petitioner. This Court relied upon the judgment passed earlier dated 08.10.2014 (*supra*) and dismissed the writ petitions.

5 The Respondents further submit that all the three Respondents have now been regularized and granted permanency by the orders dated 20.10.2014. It is, therefore, submitted that in the light of the facts stated above, these Writ Petitions deserve to be disposed of.

6 Insofar as the contentions of the Petitioner are concerned, the answer lies in paragraph 44 of the judgment of the Apex Court in the case of Secretary, State of Karnataka v/s Umadevi (supra), which reads as under:-

“44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V.Narayanappa* (supra) [AIR 1967 SC 1071], *R.N.Nanjundappa* (supra) [AIR 1972 SC 1767], and *B.N.Nagrajan* (supra) [AIR 1979 SC 1676], and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts

that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

7 The Apex Court, in the case of *MSRTC v/s Casteribe Rajya Parivahan Karmchari Sanghatana*, **(2009) 8 SCC 556**, has concluded that the provisions of the MRTU & PULP Act, 1971 are not denuded by the judgment of the Apex Court in the case of Umadevi (supra).

8 In an identical set of facts, this Court has already taken a view in the judgment dated 08.10.2014 in Writ Petition No.3382/2014 (supra). Considering the submissions of the Petitioner and considering the record available, I do not find that these petitions have brought forth any new point due to which this Court could take a different view.

9 In the light of the above, all these Writ Petitions are dismissed.

(RAVINDRA V. GHUGE, J.)