

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1231/2016

Niranjana Pandurang Meshram and others

...Versus...

**State of Maharashtra, Department of Public Health, through its Principal
Secretary, Mantralaya, Mumbai – 32 and others**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.R. Patil, Advocate for petitioners
Ms R.V. Kaliya, AGP for respondent nos.1, 2 and 5
Shri B.B. Mehadia, Advocate for respondent no.3

**CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : 21.07.2016

By this writ petition, the petitioners seek a direction against the respondents to absorb the petitioners as permanent auxiliary nurses/midwives by answering the representation in their favour. A prayer is made for a direction against the respondents to regularize the services of the petitioners.

It is the case of the petitioners that they are working with the respondents as auxiliary nurses/midwives since 2006 and they have completed nearly 10 years of service and in view of the judgment rendered by the Hon'ble Supreme Court in the case of *State of Jharkhand and others...Versus...Kamal Prasad and others*, reported in (2014) 7 SCC 223, the services of the petitioners are required to be regularized.

It is, however, pointed out on behalf of the respondents by the learned Assistant Government Pleader and the learned Counsel for the respondent no.3 that the services of the petitioners cannot be regularized, when they are not appointed after following the due process of selection and they have not completed 10 years of service before the cut off date, as held by the judgment in the case of ***Secretary, State of Karnataka and others...Versus...Umadevi and others***, reported in (2006) 4 SCC 1. It is stated that the judgment of the Hon'ble Supreme Court in the case of ***State of Jharkhand and others...Versus...Kamal Prasad and others*** (supra) would not be applicable to the case of the petitioners, as the petitioners are appointed in the year 2006 and as per the said judgment, the petitioners would have been required to complete 10 years of service before 2006.

We find much force in the submission made on behalf of the respondents. We find that the petitioners would not be entitled for regularization by placing reliance on the judgment, reported in ***State of Jharkhand and others...Versus...Kamal Prasad and others*** (supra). However, it would be necessary in the interest of justice to direct the respondents not to terminate the services of the petitioners, till a regularly selected candidate is appointed, after following the due process of selection.

Hence, though we are not inclined to grant the prayer for regularization of the services of the petitioners, we direct the respondents to continue the services of the petitioners, till the regular appointments are made by following the due process of selection.

With the aforesaid observations and directions, we dispose of the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar

C E R T I F I C A T E

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