

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22309 OF 2003

ORDER:

1. This Writ Petition is filed seeking to issue a writ of *Mandamus* to call for the records relating to and connected with the proceedings in Rc.No.9015/Admn.IIE/2002, dated 10.09.2003, issued by the 1st respondent, and quash or set-aside the same and further direct the respondents to regularize the services of the petitioners in their respective posts in terms of G.O.Ms.No.212, dated 22.04.1994, by declaring the action of the 1st respondent in not regularizing the services of the petitioners, as arbitrary and illegal.

2. Heard Sri V.V.Narasimha Rao, learned counsel for the petitioners, and Sri N.Bhupal Reddy, learned Standing Counsel, appearing for the respondents.

3. It has been contended by learned counsel for the petitioners that the petitioners were initially appointed on daily wage basis with the 1st respondent – Society on 15.08.1988 and since then they have been continuously discharging their duties. Subsequently, when the petitioners submitted representations seeking regularization of their services, in terms of G.O.Ms. No.212, dated 22.04.1994, the 1st respondent has rejected their cases *vide* proceedings dated 10.09.2003. Challenging the said rejection orders, the present writ petition is filed.

4. The petitioners further contend that, at the time of admission, this Hon'ble Court was pleased to grant *interim* direction to continue the petitioners, on the same terms conditions as existing then, *vide* orders dated 23.10.2003, and by virtue of the said interlocutory orders the petitioners are being continued in their respective services. But, the

petitioners further contend that Hon'ble Supreme Court in **Secretary, State of Karnataka and others Vs. Umadevi and others**¹, held as follows at Para No.53, which is as under:

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in **S.V.Narayanappa**¹¹, **R.N.Nanjundappa**¹² and **B.N.Nagarjan**⁸ and referred to in Para 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 the 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 regularise 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 the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned 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 *sub judice*, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent those not duly appointed as per the constitutional scheme."

5. Learned counsel for the petitioners submits that, in view of the principle laid down by the Apex Court in the decision referred *supra*, the case of the petitioners deserves to be considered for regularization of their services and further contend that appropriate orders be passed directing the respondents to consider the regularization of the services of the petitioners.

¹ (2006) 4 SCC (1)

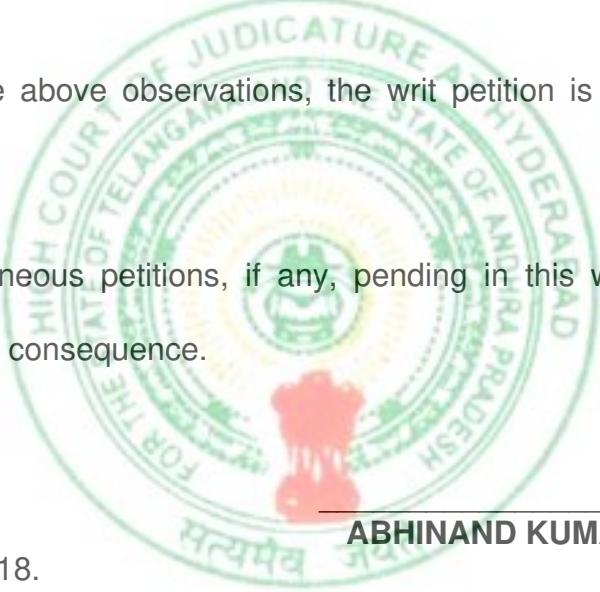
6. Learned Standing Counsel appearing for the respondents had contended that the petitioners are not entitled for regularization as they were not appointed regularly and, hence, the question of considering their cases for regularization, at this point of time, would not arise.

7. This Court, having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the respondents to consider the case of the petitioners for their regularization in the light of the observations made by the Apex Court in ***Umadevi***¹ and pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order.

8. With the above observations, the writ petition is disposed of. No costs.

9. Miscellaneous petitions, if any, pending in this writ petition shall stand closed in consequence.

Date: 23.11.2018.
Dsh



ABHINAND KUMAR SHAVILI, J

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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Date. 23.11.2018

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