

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

WRIT PETITION NO.7473 OF 2019

Ashabai Rangnath Bansode and ors. ..Petitioners

Versus

The State of Maharashtra and ors. ..Respondents

Mr A.N. Kakade, Advocate for petitioners
Mrs V.S. Choudhary, A.G.P. for respondents no.1 and 2
Mr V.P. Patil, Advocate for respondent no.3

- WITH -

WRIT PETITION NO.12738 OF 2018

Sunanda Gangadhar Jadhav and ors. .. Petitioners

Versus

The State of Maharashtra and ors. ..Respondents

Mr A.N. Kakade, Advocate for petitioners
Mrs V.S. Choudhary, A.G.P. for respondents no.1 and 2
Mr V.P. Patil, Advocate for respondent no.3

- WITH -

WRIT PETITION NO.14356 OF 2019

Varsha Dattatraya Gabhale and ors. ..Petitioners

Versus

The State of Maharashtra and ors. ..Respondents

Mr A.N. Kakade, Advocate for petitioners
Mrs V.S. Choudhary, A.G.P. for respondents no.1 and 2
Mr V.P. Patil, Advocate for respondent no.3

- AND -

WRIT PETITION NO.8292 OF 2019

Sunita Phulchand Gangave ..Petitioner

Versus

The State of Maharashtra and ors. ..Respondents

Mr R.R. Bangar, Advocate h/f Mr P.K. Wagh, Advocate for petitioner
Mr P.S. Patil, Addl.G.P. for respondents no.1 and 2
Mr V.P. Patil, Advocate for respondent no.3

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 11th February 2020

ORAL ORDER :

1. The petitioners herein are appointed as Auxiliary Nursing Midwiferies (ANMs) with respondent – Zilla Parishad in the year 1997.

2. It is the contention of petitioners and not disputed by the Zilla Parishad that the petitioners are continuously working as ANMs since the date of their appointment on contract basis. The petitioners are appointed on pay-scale. According to the petitioners, all ANMs working with various Zilla Parishads throughout the State are regularized in service. The Government has issued resolution on 2.5.2009 directing the regularization of all the ANMs. The proposal of the petitioners was also sent to the Divisional Commissioner for regularization. The Divisional Commissioner, under its order dated 17.10.2017 directed regularization of the services of the petitioners as ANMs. However, the order was not implemented.

3. According to the learned A.G.P., in view of the Government Resolution dated 5.5.2018, the directions were issued that all employees entering in service through backdoor shall not be entitled for regularization. The same was issued pursuant to the judgment of the Apex Court in case of **State of Karnataka Vs. Umadevi and Ors.**, reported in **2006 AIR SCW 1991**.

4. According to the petitioners, all other ANMs working with other divisions so also some of the ANMs in Ahmednagar Zilla Parishad have been regularized in service. Even those ANMs appointed much subsequent to the

petitioners are regularized in service in other divisions. The petitioners rely on the judgment of the Apex Court in case of **Prem Singh Vs. State of U.P. and Ors.**, reported in **SCT 2019 4 386, LEX (SC) 2019, 98 SCALE 2019 12-20.**

5. The factual matrix as is narrated above is not a matter of dispute. The petitioners are appointed as ANMs on contract basis. The petitioners are given the salary as per the pay-scale and they are continuously working since 1997. The Government Resolution dated 2.5.2009 provides for regularization of services of the ANMs. The said Government Resolution gives powers to the Divisional Commissioner to consider the case for regularization and pass appropriate orders. The Divisional Commissioner, pursuant to the said Government Resolution, on or about 17.10.2017 gave sanction for regularizing the services of 153 appointed candidates. The petitioners are in the list of 153 candidates directed to be regularized under the orders of Divisional Commissioner dated 17.10.2017.

6. All other ANMs appointed after the petitioners on contract basis have been regularized by other Zilla Parishads relying on the Government Resolution dated 2.5.2009. The same benefit cannot be denied to the petitioners. The petitioners are also entitled for the said benefit of the Government Resolution dated 2.5.2009. The decision was also taken by the competent authority (Divisional Commissioner) giving sanction to the regularization to the services of the petitioners. It is only because subsequent Government Resolution dated 5.5.2018 was issued, the said order of the Divisional Commissioner is not implemented. The said Government Resolution is subsequent in point of time. Prior to the issuance of Government Resolution dated 5.5.2018, the order was already passed regularizing the services of the petitioners.

7. We are inclined to accept the contention of the petitioners on two counts, (I) pursuant to the Government Resolution dated 2.5.2009, other ANMs working with other Zilla Parishads in the State have been accorded benefit of regularization. Even those appointed ANMs after the petitioners have been accorded the benefit of regularization; and (II) order is already passed in favour of the petitioners by the competent authority at the relevant time, viz. Divisional Commissioner sanctioning regularization of services of the petitioners.

8. The petitioners are continuously working without interim protection of this Court for twenty two long years on the same posts. It is high time, the respondents regularized the services of the petitioners.

9. In light of the above, we pass the following order :

ORDER

(I) The respondents shall accord the benefit of Government Resolution dated 2.5.2009 to the petitioners and implement the orders of the Divisional Commissioner dated 17.10.2017, passed in their favour for regularizing the services of the petitioners.

(II) The said exercise shall be completed within three months.

10. Writ Petitions are accordingly allowed in above terms. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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