

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5119 OF 2019

Dr. Ravi K. Tale and others ... Petitioners
Vs.
State of Maharashtra and others ... Respondents

Mr. Kranti L. C. a/w. Mr. Kaustubh Gidh for the Petitioners.
Mr. P. P. Kakade, GP with Mrs. R. A. Salunkhe, AGP for Respondent
Nos.1 to 3-State.
Mr. Mohamedali Chunawala with Mr. Neel Helekar for Respondent
No.4.

**CORAM : UJJAL BHUYAN &
N. R. BORKAR, JJ.**

Reserved on : JULY 13, 2020
Pronounced on : AUGUST 11, 2020

P.C. :

Heard Mr. Kranti L. C., learned counsel for the petitioners; Mr. Kakade, learned Government Pleader for respondent Nos.1, 2 and 3; and Mr. Neel Helekar, learned counsel for respondent No.4.

2. 15 petitioners have joined together and have filed the present petition under Article 226 of the Constitution of India seeking the following reliefs:-

1. To set aside and quash the instruction of the State Government dated 30.03.2019 to the Zilla Parishads to terminate the services of dental surgeons serving on contract basis who are not covered by the interim protection of the Maharashtra Administrative Tribunal;
2. To set aside and quash termination orders dated 30.03.2019, 31.03.2019 and 01.04.2019;
3. To issue a direction to the respondents to allow the petitioners to resume their services; and
4. To direct the respondents not to employ any other person in place of the petitioners.

3. Case of the petitioners is that they are dental surgeons working under the National Oral Health Programme in several districts in the State of Maharashtra, holding the requisite degree of Bachelor of Dental Sciences obtained from approved and recognized dental colleges of the country.

3.1. National Oral Health Programme (NOHP) is a subset of National Health Mission of the central government which is being implemented in the State of Maharashtra through the Directorate of Public Health and State Health Society, Maharashtra i.e., respondent No.3.

3.2. It is stated that National Health Mission provides focus and emphasizes thrust to health services at all levels. It encompasses within its fold two sub-missions viz. National Rural Health Mission (NRHM) and National Urban Health Mission (NUHM). Amongst the various programmes undertaken by National Health Mission is included Non-communicable Disease Control Programme which in turn includes the programme called National Oral Health Programme, already mentioned as NOHP for short.

3.3. NOHP was introduced in the year 2009 as inspite of the existing dental care services in the country, much more needed to be done. It was in that context that there was requirement for sufficient number of manpower, such as, dental surgeons, dental hygienists and dental assistants. For effective implementation of various programmes under the National Health Mission, State of Maharashtra constituted the State Health Mission through the formation of State Health Society vide Government Resolution dated 24.10.2005.

3.4. Advertisements were issued for the post of dental surgeon under NOHP for the districts of Hingoli, Nashik, Pune, Satara, Amravati, Jalgaon, Washim, Buldhana, Latur, Gondia, Raigad, Aurangabad, Chandrapur, Bhandara and Gadchiroli. Following a due selection

process, petitioners were selected and thereafter appointed in different hospitals. Details of such appointment of the petitioners are furnished hereunder in the form of a statement:

	Name	Post	Dt. of Apptt.	Hospital	District
	1	2	3	4	5
1	Dr. Ravi Tale	Dental Surgeon	16.11.2016	District Hospital	Hingoli
2	Dr. Keshav Hengde	-do-	01.03.2018	-do-	Nashik
3	Dr. Pranali Satpute	-do-	09.11.2017	-do-	Pune
4	Dr. Yogita Shah	-do-	27.03.2017	-do-	Satara
5	Dr. Tushar Rathi	-do-	28.12.2017	District General Hospital	Amravati
6	Dr. Goldie Chawla	Contractual Dentist	22.03.2017	Civil Hospital	Jalgaon
7	Dr. Manjusha Warade	Dental Surgeon	14.06.2017	District General Hospital	Washim
8	Dr. Ashish Gaikwad	-do-	29.08.2017	-do-	Buldhana
9	Dr. Smita Wanje	-do-	09.09.2017	Jishachisha (HQ)	Latur
10	Dr. Dipashi Kolhatkar	-do-	15.06.2017	KTS Gondia Hospital	Gondia
11	Dr. Priyanka Pingale	-do-	29.03.2017	District Hospital, Alibagh	Raigad
12	Dr. Rasik Bagde	-do-	09.01.2017	District Hospital	Ahmednagar
13	Dr. Pallavi Bombale	-do-	03.04.2017	-do-	Chandrapur
14	Dr. Sudha Meshram	-do-	23.02.2017	-do-	Bhandara
15	Dr. Prachi Dhait	Dentist	22.06.2018	General Hospital	Gadchiroli

3.5. Be it stated that petitioners were appointed on contract basis for a period of eleven months. It is stated that upon successful completion of

their contract periods, service of the petitioners were assessed by the respective civil surgeons whereafter their contractual engagements were extended. It is further stated that as per practice petitioners continued to work even after expiry of their contract period for which they were paid remuneration till such time fresh contracts were executed continuing with their contractual appointments with technical breaks of one or two days shown in between.

3.6. By communication dated 31.05.2018 central government informed State of Maharashtra that National Health Mission would be continued beyond 31.03.2019.

3.7. Though somewhat unrelated, petitioners have brought on record that against 188 sanctioned posts of dental surgeons available with the state government, Maharashtra Public Service Commission initiated recruitment process in the year 2015 which was subjected to prolonged litigation. It is stated that by virtue of interim order passed by the Maharashtra Administrative Tribunal in the year 2015 against the said 188 posts, 60 temporary candidates continued in service and out of the 188 candidates selected by the Public Service Commission, only 90 reported for duty. It is stated that this fact has been mentioned only to bring on record the prevailing ground situation that according to the state government personnel holding the post of dental surgeon are in excess of the posts. It is in that context that central government had allowed 44 posts of dental surgeon given the assertion of the state that number of dental surgeons are in excess which the petitioners contend is incorrect.

3.8. State of Maharashtra by communication dated 30.03.2019 issued instructions to the concerned officers of respective *Zilla Parishads* that since only 44 posts were provided for the year 2019-20 as against 221 posts in 2018-19, those dental surgeons not protected by order of the Maharashtra Administrative Tribunal should be terminated. Accordingly, termination orders were issued on 30.03.2019, 31.03.2019 and

01.04.2019 which have been communicated to petitioner Nos.1, 2, 4, 8, 9, 11, 12 and 13. Remaining petitioners apprehend that they too would be issued termination orders. In fact, petitioner No.14 who is on maternity leave has been informed that she too has been relieved from her service though there is no official communication to this effect.

3.9. On 02.04.2019 petitioners made representations before the concerned authorities not to dispense with their services but to continue with their services.

3.10. On 03.04.2019 Mission Director of NHM referred to a letter received from the Secretary to the Government of India, Ministry of Health and Family Welfare wherein it was stated that to ensure that there was no disruption in the ongoing programs / activities, approval was accorded to the districts to continue with the ongoing activities under the National Health Mission.

3.11. Aggrieved by their termination and threatened termination, petitioners have approached this Court seeking the reliefs as indicated above.

4. Petitioners have contended that their termination or threatened termination is illegal. Stand taken by the state government that personnel are in excess of the posts is factually incorrect in as much as out of the 188 advertised posts only 90 selected candidates have reported for duty. Further many of the petitioners have subsisting contracts which provide that termination from service can be carried out only under three circumstances, namely, (1) mutual agreement of the parties; (2) disability of the contractual employee; and (3) in case of breach of contract by the contractual employee. None of these conditions are present in the case of the petitioners to warrant termination. In fact performance of the petitioners have been extremely good because of which their services were extended. In such circumstances, petitioners

have a legitimate expectation that their services would be continued.

5. This Court by order dated 07.05.2019 passed an order directing the parties to maintain *status-quo* till the returnable date, which order has since been extended from time to time.

6. Respondent Nos.2 and 3 have filed a common affidavit. It is stated that NRHM was launched in the country with effect from 12.04.2005. Object of NRHM is to provide accessible, affordable and reliable healthcare to all citizens, particularly to the poorer and vulnerable sections of the society. It has set several goals including prevention and control of communicable and non-communicable diseases. Both NRHM and NUHM are part of National Health Mission whose core objective is to provide universal access to affordable and quality healthcare.

6.1. Under the National Health Mission, dental surgeons are required in the following programmes-

1. Indian Public Health Standard (IPHS);
2. National Oral Health Programme (NOHP); and
3. District Early Intervention Centre (DEIC).

6.2. The dental surgeons are appointed on contract basis by following a transparent recruitment process.

6.3. Some of the dental surgeons appointed on contract basis under the National Health Mission had filed an original application before the Maharashtra Administrative Tribunal, Mumbai (OA No.1091 / 2015, *K. D. Lohite Vs. State of Maharashtra*) challenging the recruitment process initiated by the state government through the Maharashtra Public Service Commission to fill up the posts of dental surgeon on regular basis and for a direction to the state to absorb / regularise the services of the contractual dental surgeons. Maharashtra Administrative Tribunal passed

an interim order on 01.03.2018 directing that the contractual appointments should be continued till the next date of hearing without however creating any right or equity on account of such continuance in service.

6.4. While the respondents tried to comply with the above interim order, Project Implementation Plan was received from the Government of India whereby only 44 positions of dental surgeons were approved for 12 months. It was mentioned that as against the requirement of 582 posts of dentists, State of Maharashtra is having 538 posts under regular cadre; hence the differential in the number of posts i.e., 44 posts were approved under National Health Mission with the instruction that the state should fill up the vacant posts under regular cadre.

6.5. As Government of India had given budgetary provision for only 44 positions, Health Department had no other alternative but to relieve the dental surgeons who were not protected by the interim order of the Maharashtra Administrative Tribunal (Tribunal). Such a decision became necessary as the question of payment of salary was involved.

6.6. It is stated that it is the settled policy of National Health Mission that whenever positions are disapproved by Government of India in Project Implementation Plan, the concerned personnel are relieved from engagement because of non-availability of posts and budget for payment of salary. In this connection it is stated that Health Department had taken a decision on 31.03.2019 to relieve the dentists / dental surgeons who were not protected by the interim order of the Tribunal.

6.7. Respondent Nos.2 and 3 have mentioned the dates when the petitioners were relieved from their engagements. Barring petitioner Nos.4 and 8 who were relieved on 01.04.2019, the other petitioners were relieved on 31.03.2019.

6.8. Tribunal finally decided OA No.1091 of 2015 on 08.05.2019. By the final order Maharashtra Public Service Commission was directed to revise the list of selected candidates and to send additional names including those original applicants who were found eligible based on minimum qualification on scrutiny by Maharashtra Public Service Commission. Till completion of the above process, none of the original applicants should be terminated. It was clarified that if any of the applicants was not selected through the above process, their services should not be terminated without giving them 30 days notice with liberty to them to challenge such adverse decision before the appropriate forum.

6.9. It is stated that petitioners are not entitled to the protection of the aforesaid order dated 08.05.2019 as they were not the applicants in OA No.1091/2015.

6.10. Stand taken by respondent Nos.2 and 3 is that petitioners are purely temporary employees appointed on contract for 11 months under the National Health Mission. They were not appointed against permanent, vacant and sanctioned posts of dentists / dental surgeons of the Public Health Department. Therefore petitioners cannot claim that they should be appointed or absorbed or regularised against such posts in the Public Health Department which are required to be filled up through a regular recruitment process. Reference has been made to the appointment letters of the petitioners wherein it was stated that if the central government did not approve the posts / positions in the Project Implementation Plan, services of the petitioners would come to an end. Therefore, impugned action taken by the respondents cannot be termed as arbitrary; besides petitioners were fully aware of such contingencies and consequences at the time of their appointment itself. Contending that petitioners are not entitled to any relief, respondent Nos.2 and 3 seek dismissal of the writ petition.

7. Respondent No.4 in his affidavit has stated that initially National

Health Mission was launched for the period from 2005 to 2012. It is an initiative undertaken by the Government of India to supplement the efforts of the states in addressing the healthcare needs of the population by providing accessible, affordable and quality healthcare to the people, health being a state subject. National Health Mission was thereafter extended from time to time and is likely to be extended beyond March, 2020 upto which period it is currently approved.

7.1. Programmes under the National Health Mission are subjected to periodic review. It is stated that under the National Health Mission, financial support is provided by the central government to the states based on requirements projected in Programme Implementation Plan (referred to by respondent Nos.2 and 3 as Project Implementation Plan) submitted by the states. After going through the required process the proposals are approved. Regarding central finance it is stated that the financing pattern is 60:40 for all states except north-eastern states and certain special category states where the sharing pattern is 90:10. In case of respondent No.1 i.e., State of Maharashtra, the proportion of financial support by the central government *vis-a-vis* the state government is in the ratio of 60:40. It is open to the states to augment, add and increase the efforts of National Health Mission from their own resources.

7.2. Implementation of National Health Mission is the exclusive domain of the state government. It is the state government which is responsible for appointment of personnel, be it contractual or conditional, and matters related thereto, such as, payment of remuneration, transfer, termination of service etc.

7.3. Regarding the petitioners it is stated that they were neither appointed nor paid remuneration by respondent No.4 as there is no privity of contract between petitioners and respondent No.4.

7.4. It is further stated that National Health Mission is not a permanent

programme and requires periodic approval of the central cabinet for its continuation. Therefore, essential human resource is allowed to be engaged on contract basis under the said mission.

7.5. Responding to the case of the petitioners, it is stated that as per IPHS, there is requirement of 582 posts of dental surgeon in the State of Maharashtra. As against this, State of Maharashtra is having 538 sanctioned posts of dentist under regular cadre and 77 posts under National Health Mission. Therefore, in the financial year 2019-20, under the National Health Mission, only the differential in the number of posts were sanctioned i.e., 44 posts, which was done following discussion in the National Programme Co-ordination Committee in which representatives of respondent No.1 were also present.

7.6. Referring to the litigation in the Maharashtra Administrative Tribunal, it is stated that in the year 2015 respondent No.1 i.e., State of Maharashtra had created 884 posts of dental surgeon and initiated recruitment process through the Maharashtra Public Service Commission for filling up the said posts on regular basis. However, only 189 (according to averments in the writ petition, only 188 posts) out of the 884 posts were filled up. Some of the candidates who were not selected felt aggrieved due to amendment of the appointment rules during the recruitment process. They approached the Tribunal in *Dr. Kshitij Digambar Lohite Vs. State of Maharashtra*. Tribunal vide the judgment dated 08.05.2019 directed the Public Service Commission to complete the process of scrutinising and furnishing fresh additional list of candidates to the state government within one month, further directing the state government to carry out consequential steps by issuing orders of appointment in favour of the eligible applicants within one month thereafter. As such respondent No.1 is bound to fill up the vacant posts of dental surgeon under its regular cadre.

7.7. Referring to the judgment of the Supreme Court in *State of*

Karnataka Vs. Uma Devi, (2006) 4 SCC 1, it is stated that when it is a case of contractual appointment, the appointment comes to an end when the contract expires.

7.8. It is stated that presently National Health Mission is extended upto 31.03.2020. Further extension is subject to approval of Government of India. Question of legitimate expectation of the petitioners does not arise. Petitioners were given equal opportunity to participate in the recruitment process conducted by the state through the Public Service Commission. Following the same, many of the dental surgeons working under National Health Mission in the State of Maharashtra were duly appointed in the regular cadre of respondent No.1.

7.9 Finally it is contended that there is no merit in the writ petition which is therefore liable to be dismissed.

8. Petitioners have filed a consolidated rejoinder affidavit to the reply affidavits filed by respondent Nos.2 and 3 on the one hand and respondent No.4 on the other hand. It is stated that NOHP under which petitioners were appointed, have been continued. There is need for the services of the petitioners and in this regard a requisition has been made by the state to the central government through the Programme Implementation Plan to reinstate the services of the petitioners. Referring to the litigation before the Tribunal it is stated that the same pertained to recruitment to the regular cadre of dental surgeon in the State of Maharashtra and therefore the decision rendered therein is not applicable to the petitioners. Even there also, out of the 884 posts created in the year 2015, recruitment has been made to only 189 posts.

8.1. Though NOHP programme has been continued, attempts were made to fill up the posts of dental surgeon thereunder (34 posts) by temporary appointees, thus replacing the petitioners by those temporary appointees. In this connection recruitment notices were issued from 31st

July to 7th August, 2019.

8.2. Petitioners who are dentists / dental surgeons under the NOHP should be considered against the 44 posts approved by Government of India. Petitioners have not prayed for regularization of service and therefore the decision in *Uma Devi* is not applicable.

8.3. Further, stand of respondent No.4 is contradictory. On the one hand he says that posts of dental surgeon under National Health Mission have been reduced from 77 to 44, but on the other hand he says that 884 posts were created in the year 2015 out of which recruitment process was initiated for only 189 posts.

9. Submissions made by learned counsel for the parties are on pleaded lines. Therefore, a detailed reference to the same is considered not necessary. However the submissions so made have been duly considered.

10. Short point for consideration is whether termination orders of the petitioners are legally sustainable or not? Corollary to that is the question whether petitioners are entitled to continuation of their contractual service as dental surgeons / dentists?

11. For answering the questions it would be apposite if we advert to the order dated 30.03.2019 passed by Commissioner, Health Services and Mission Director, National Health Mission, Maharashtra addressed to the Chief Executive Officers of the Zilla Parishads in the State of Maharashtra. Termination orders which followed thereafter are all consequential.

12. As per the impugned order dated 30.03.2019, central government had only approved 44 posts of dental surgeon under National Health Mission for the State of Maharashtra in the year 2019-2020 as against

221 posts approved for the year 2018-2019. Further, as per interim order of the Maharashtra Administrative Tribunal, in the case of *K. D. Lohite*, those dental surgeons not covered by the protection thereof have been released from their contractual engagements in view of the reduced number of posts. It is for these reasons that service of the petitioners as contractual dental surgeons was being dispensed with.

13. From the pleadings, it is evident that State of Maharashtra had created a total of 884 posts of dental surgeon and initiated recruitment process through the Maharashtra Public Service Commission for filling up the said posts on regular basis. However, only 189 out of 884 posts were filled up. Some of the candidates who were not selected challenged their non-selection and the selection of the recruited candidates before the Tribunal in *K. D. Lohite*. Tribunal had passed an interim order on 01.03.2018 directing that the contractual appointments of the original applicants should be continued till the next date of hearing without however creating any right or equity on account of such continuance in service. Original Application i.e., O.A.No.1091 of 2015 was finally decided on 08.05.2019. By the final order, Maharashtra Public Service Commission was directed to revise the list of selected candidates and to send additional names including those of the original applicants who were found eligible based on minimum qualification on scrutiny by the Maharashtra Public Service Commission. It was further directed that till completion of the above process, none of the original applicants should be terminated, with the clarification that if any of the original applicants was not selected through the above process, their services should not be terminated without giving them 30 days notice with liberty to them to challenge such adverse decision before the appropriate forum.

14. This decision of the Tribunal is not related to or cannot be extended to the case of the petitioners. The litigation before the Tribunal pertained to recruitment to the regular cadre of dental surgeon in the State of Maharashtra. It is true that in the said recruitment process, some

of the contractual dentists serving under the National Health Mission in the State of Maharashtra had participated and on being aggrieved by their non-selection had filed the related original application before the Tribunal. Firstly, petitioners, at least from the pleadings, did not participate in such recruitment process. Secondly and consequently, they were not parties to the original application filed before the Tribunal. Needless to say, petitioners are not claiming recruitment on regular basis or regularization of service in the regular cadre of dental surgeon in the State of Maharashtra. Their case is that they were selected following a transparent selection process and appointed as dental surgeons under the National Health Mission in the State of Maharashtra on contract basis, which has been extended from time to time. Termination of such contractual appointment is not justified, petitioners contend.

15. As discussed above, the litigation before the Tribunal in *K. D. Lohite* cannot be extended to the case of the petitioners. Therefore, either on the strength of the interim order or the final order passed in that case, contractual service of the petitioners cannot be dispensed with.

16. This brings us to the other ground for terminating the contractual service of the petitioners i.e., reduction in the number of posts of dental surgeon under the National Health Mission for the State of Maharashtra from 221 posts in 2018-19 to 44 posts for the year 2019-20.

17. In the reply affidavit of respondent No.4, it is stated that central government had given approval to 44 posts for the year 2019-20 because of requisition made by the state government through the Programme Implementation Plan. State government had presented before the central government that against the requirement of 582 posts of dental surgeon, there were 538 sanctioned posts. It is in that context that the differential in the number of posts i.e., 44 were sanctioned which was done following due deliberation in the National Programme Co-ordination Committee in which representatives of respondent No.1 i.e., State of

Maharashtra were present.

18. Petitioners in their rejoinder affidavit have stated that NOHP under which petitioners were appointed have been continued beyond March, 2020. Therefore, there is need for the contractual services of the petitioners. In this regard, requisition has been made by the state government to the central government to reinstate the services of the petitioners. It is also stated that out of the 884 posts of dental surgeon created by the state government in the year 2015, recruitment has been made to only 189 posts, thus leaving out 695 posts, which are yet to be filled up.

19. From exhibit-F at page 142 of the paper-book, it is seen that Joint Secretary to the Government of India, Ministry of Health and Family Welfare had written to the Additional Chief Secretary / Principal Secretary, Health and Family Welfare / Secretary, Health and Family Welfare of all the States and Union Territories of the country, including the State of Maharashtra, on 31.05.2018 stating that the central government cabinet had approved continuation of National Health Mission upto 31.03.2020. Respondent No.4 in his affidavit has stated that National Health Mission was extended upto 31.03.2020. Further extension beyond 31.03.2020 would be dependent on approval of the central government. Though in the course of the hearing submissions were made by learned counsel for the petitioners that National Health Mission has been extended beyond 31.03.2020, nothing has been placed on record to this effect. However, it goes without saying that if the National Health Mission has been extended beyond 31.03.2020 and as per the Project Implementation Plan state government has informed the central government about requirement of the services of the petitioners, there is no reason why the contractual services of the petitioners should not be extended. In any event, even as per the stand of the respondents as per their affidavits, there are 44 posts required to be filled up on contractual basis under the National Health Mission in the State of

Maharashtra. When the services of the petitioners are available as contractual employees, it does not stand to reason to initiate a fresh recruitment process for appointment of a fresh lot of dental surgeons on contract basis. Ordinarily appointments made under a scheme or programme or mission, even if such appointments are contractual, are continued co-terminous with such scheme, programme or mission subject of course to the conditions of the contract. However, if respondent Nos.1 and 2 want to fill up the additional 695 posts in the regular cadre which were created in the year 2015, they can certainly go ahead in which event petitioners would have all the liberty to participate in such recruitment process. But presently, grievance of the petitioners is limited to their continuance as contractual employees.

20. Reliance placed by respondent No.4 on the decision of the Supreme Court in **Uma Devi** (*supra*), appears to be misplaced in as much as petitioners are not seeking regularization of their services on the strength of their contractual appointments. What they are seeking is continuation of their contractual employment as dental surgeons under the National Health Mission in the State of Maharashtra. In **Uma Devi** (*supra*), Constitution Bench of the Supreme Court held that there can be no regularization of the services of temporary, contractual, casual, daily wagers or *ad-hoc* employees merely on the ground of long continuance in service if such employment was *dehors* the constitutional scheme of public employment and in this regard, it was held that any direction by the High Court for regularization of service of such category of employees may be violative of the right to equality under Article 14 of the Constitution of India. It was in that context that Supreme Court held in paragraph 47 that when a person enters temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post

when an appointment to the post could be made only by following a proper procedure for selection.

21. This judgment in **Uma Devi** (*supra*) cannot be applied to the present case because petitioners are not seeking regularization of their contractual employment.

22. On the other hand, in *State of Haryana Vs. Piara Singh*, **AIR 1992 SC 2130**, which was also a case relating to regularization of service, Supreme Court held that an *ad-hoc* or temporary employee should not be replaced by another *ad-hoc* or temporary employee. He must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority. This principle of non-replacement of *ad-hoc* or temporary employees by *ad-hoc* or temporary employees can be extended to the case of contractual employees as well.

23. Having noticed the above, we can fairly say that the two conditions which found mention in the impugned order dated 30.03.2019 and which have been cited by the respondents to justify termination of service of the petitioners cannot be extended to the case of the petitioners. If the two foundational conditions are thus removed, it becomes evident that the impugned order cannot survive. That being the position, we have no hesitation to set aside and quash the impugned order dated 30.03.2019, *Annexure-J* to the writ petition in so far the petitioners are concerned as well as the consequential termination orders in respect of the petitioners. Regarding continuance of contractual employment of the petitioners is concerned, if the National Health Mission has been extended beyond 31.03.2020 there being admittedly requirement of 44 contractual dental surgeons (irrespective of the requisition made by the state government to the central government through the Programme Implementation Plan for continuance of the services of the petitioners), there can be no justifiable reason to

discontinue the contractual employment of the petitioners and at the same time to hold a recruitment process for selecting and appointing another set of contractual dental surgeons replacing the petitioners. This is required to be borne in mind by respondent Nos.2 and 3.

24. Consequently, matter is remitted back to respondent Nos.2 and 3 to take a fresh decision regarding continuance of contractual employment of the petitioners as dental surgeons under the National Health Mission in the State of Maharashtra keeping in mind the discussions made above. Such decision, which shall be in the form of a reasoned order, shall be taken within a period of four weeks from the date of receipt of a copy of the present order, which shall be communicated to the petitioners. Till such order is passed and communicated to the petitioners, *status-quo* order passed by this Court on 07.05.2019 in respect of the petitioners shall be continued and all benefits accrued therefrom and consequent upon taking of fresh decision shall be conferred upon the petitioners.

25. With the above directions, writ petition is disposed off. However, there shall be no order as to costs.

26. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(N. R. BORKAR, J.)

(UJJAL BHUYAN, J.)

Minal Parab