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

907 WRIT PETITION NO.4197 OF 2003

1. The State of Maharashtra,
Through the Deputy Director,
Social Forestry, Jalgaon Division,
Jalgaon,
2. The Plantation Officer,
Social Forestry, Range Office,
Erandol, Tq. Erandol,
Dist. Jalgaon

....PETITIONERS

VERSUS

1. Khandesh Van Shramik Sanghatana,
Trade Union Cener, Rani Laxmi Chowk,
Amalner, Dist. Jalgaon
2. Nana Sursingh Patil,
Age: 48 years, Occ: Labour,
R/o. Hingone (Kh), Tq. Dharangaon,
Dist. Jalagon
3. Shantraram Trimbak Apar,
Age: 62 years, Occu: Labour,
R/o. Erondal, Tq. Erondal,
Dist. Jalagon
4. Ramchandra Dattu Koli,
Age: 46 years, Occ: Labour,
R/o. At Post Ravani, Tq. Erondal,
Dist. Jalgaon

....RESPONDENTS

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Smt. V. S. Choudhari, A.G.P. for petitioners
Mr P. V. Barde, Advocate h/f Mr D. B. Shinde Advocate for
respondent No.2 to 4

CORAM : RAVINDRA V. GHUGE, J

DATE : 24th March, 2022

PER COURT:

1. By an order dated 08/10/2003, this Court had granted interim relief to the petitioners. The said order reads thus :-

“. *Heard.*

. *The learned AGP Shri. Chillarge, has invited my attention to two judgments of the Apex Court. The first one is reported in AIR 1996 SC 708 “State of U.P. & others Vs. U. P. Madhyamik Shiksha Parishad Shramik Sangh and another”. The said judgment is delivered by two learned Judges of the Supreme Court holding that the principle of ‘equal pay for equal work’ has no application to daily wage employees in the absence of regularly created post and no direction can be given to the employer, in regard to payment of wages to the daily wagers, on par with the regular employees. The same ratio is laid down by the Apex Court in another judgment reported in AIR 2003 SC 2050.*

. *As against the judgment relied upon by the Petitioner, the respondent has placed reliance on a judgment of the Apex Court, reported in (1996) 1 SCC Page 637, wherein the Apex Court has held that so long as the daily wage workers perform the same duties, as are performed by regular employees, they must receive the same salary & condition of service as Class-IV employees.*

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. *There does appear a conflict in the view taken in the judgments relied upon by the petitioner on the one hand and the one relied upon by the respondent. Hence, issue Rule.*

. *Interim stay in terms of prayer clause (c).*

. *Leave to amend.”*

2. The complainant/Union had preferred Complaint (ULP) No.1343/2019 (Old Case No.170/1990) wherein, an annexure was placed on record containing 18 workers for whom, the Union was espousing the cause. It is informed that only 3 workers, namely, Shantaram Trimbak Apar, Nana Sursingh Patil and Ramchandra Dattu Koli are yet not regularized. All other 15 employees have been regularized. Now Shantaram Trimbak Apar has attained the age of superannuation.

3. The learned A.G.P. has strenuously canvassed that, these 3 persons are working under the Employment Guarantee Scheme (EGS). There was nothing placed before the Lower Court and this Court even in the writ petition to suggest that these 3 persons were deployed on EGS. The learned A.G.P. cites page Nos.9 to 12 in a compilation received by her from the Assistant Forest Officer, Social Forestry Division, Jalgaon. These documents are only charts prepared by the Assistant Conservator of Forest and

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do not have any probative value, unless the said document is proved as per the provisions of the Evidence Act.

4. As such, there is no evidence before this Court to indicate that these 3 persons are working on the EGS.

5. In view of the above, this petition is devoid of merits and is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

sjk