

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO.6912 OF 2022

SUBHASH HARKU DHAPLE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Barde Parag Vijay
AGP for Respondents-State : Mr. S. G. Sangle

...
WITH
WRIT PETITION NO.6916 OF 2022

BABASAHEB HAVASRAO BADEKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Barde Parag Vijay
AGP for Respondents-State : Mr. S. G. Sangle

...
WITH
WRIT PETITION NO.6950 OF 2022

KACHRU KISAN BHAPKAR
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Barde Parag Vijay
AGP for Respondents-State : Mr. S. G. Sangle

...
WITH
WRIT PETITION NO.6953 OF 2022

BABAN MAGAN GHODKE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Barde Parag Vijay
AGP for Respondents-State : Mr. S. G. Sangle

...

**WITH
WRIT PETITION NO.6956 OF 2022**

SUBHASH POPAT HANDORE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Barde Parag Vijay
AGP for Respondents-State : Mr. S. G. Sangle

...

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 29th July, 2022

PER COURT :

1. On 25/07/2022, we had passed the following order :-

"1. In all these matters, the petitioners are aggrieved by the rejection of their proposals for regularization.

2. The petitioners had earlier succeeded before the Labour Court in reference cases. The State approached this Court in a bunch of writ petitions. By order dated 26-07-2016, this Court imposed costs and directed the Labour Court to decide the issue as to whether these petitioners were workers on the Employment Guarantee Scheme (EGS). Subsequently, the Labour Court concluded, that the workers were not working on the EGS.

3. The petitioners then approached the Industrial Court for seeking permanency. By a Judgment delivered by the Industrial

Court, it was concluded that the employer would forward the proposals of these petitioners to the State of Maharashtra for seeking regularization and till then, they should not be terminated without following the due process of law.

4. The grievance of the petitioners is, that though the Labour Court as well as the Industrial Court concluded that they were not the workers working on EGS, proposals were shrewdly prepared to indicate that they were EGS workers. Hence, by the impugned orders dated 11/03/2022 and 17/03/2022, the department concluded that all these petitioners are working on EGS, and their claims were rejected.

5. Issue notice to the respondents. The learned AGP waives service of notice on behalf of all the respondents.

6. List these petitioners on 28/07/2022 in the passing orders category as the learned AGP can take instructions as to whether the conclusions of the Labour Court and Industrial Court, were assailed before the High Court."

2. The learned AGP submits on instructions that the verdicts delivered by the Labour Court in reference cases and the conclusion of the Industrial Court, concurrently holding that these petitioners are not Employment Guarantee Scheme (EGS) workers, have not been challenged in a higher Court.

3. The Deputy Conservator Forest, Ahmednagar, Mr. R. G. Devkhile

submitted a report in the form of a proposal to the Regional Chief Conservator of Forest, Nashik that these workers were deployed on EGS. In fact, the Industrial Court had directed that all these workers, being non Employment Guarantee Scheme employees, should be considered for absorption depending upon the vacancies and directed the Forest Department to send their proposals. By the proposal dated 16/11/2019, Mr. R. G. Devkhile projected to the Chief Conservator of Forests that these workers are EGS employees and as a consequence to such report, the impugned order dated 11/03/2022 was passed by the State concluding that these workers cannot be granted regularization.

4. It is, therefore, apparent in the light of the Judgments of the Labour Court and the Industrial Court that the report sent by Mr. R. G. Devkhile was a false report. We are sure that he was aware that once these workers are mentioned as being EGS employees, their proposal were bound to be rejected as EGS employees do not have a right to continued work or continued employment or regularization.

5. In view of the above, these petitions are allowed. The impugned orders dated 11/03/2022 are quashed and set aside and the Chief Conservator of Forest (Regional) Nashik, is directed to reconsider the proposals of these petitioners by recording that none of them were

working on EGS and accordingly initiate steps for regularizing their services in the light of the Judgment of the Industrial Court, Ahmednagar, dated 17/09/2019 delivered in Complaint ULP 75 of 2017, on or before 15/10/2022.

6. The Registry of this Court is directed to issue notice to Mr. R. G. Devkhile, Deputy Conservator of Forest, Ahmednagar, to show cause as to why we should not initiate action against him, by following the due procedure laid down in law.

7. Registry to issue notice to Mr. R. G. Devkhile, returnable on 08/09/2022.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

vjg/-.