

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

**REVIEW APPLICATION (CIVIL) NO.43 OF 2015
IN WP/3691/2013**

**VAJINATH MALUBAWA SURYAWANSHI AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for the Petitioners : Ms.Pradnya S. Talekar h/f Shri
Nagarkar Kiran M.

AGP for the Respondents/ State : Shri P.S. Patil

Advocate for Respondent 2 : Shri P.R. Tandale

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**CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.**

DATE :- 07th April, 2022

Per Court :-

1. We have considered the strenuous submissions of the learned counsel appearing for the respective sides, extensively. We have gone through the voluminous records available. The order sought to be reviewed is dated 19.03.2015.

2. There is no dispute that these petitioners had preferred Complaint (ULP) No.1/2005 before the Industrial Court, Latur, which came to be dismissed vide judgment dated 12.04.2006.

3. These petitioners preferred Writ Petition

No.6058/2006 before the learned Single Judge of this Court. In the hearing held on 18.02.2008, the petitioners withdrew the said writ petition with liberty to make a representation to the competent authority of the State Government.

4. It is contended that some of the employees under the same scheme, which is known as the Training Rural Youth for Self Employment (for short “TRYSEM”) from Nashik, had approached the Industrial Court, Nashik in Complaint (ULP) No.21/2001 and vide the judgment dated 14.08.2006 delivered by the Industrial Court, Nashik, the Zilla Parishad, Nashik was directed to continue the said complainants/ employees and they were granted regularization. The aggrieved Zilla Parishad approached the Principal Seat in Writ Petition No.1710/2007. The said petition has been admitted and interim relief has been refused. The learned advocate for the petitioners before us submits, on instructions, that those complainants have now been regularized and many of them have superannuated.

5. The Hand-pump Operators/ Repairers, similarly situated, working in the Amravati Zilla Parishad, had approached the Industrial Court and by the common judgment, their complaints were dismissed. They approached the learned Single

Judge of this Court at the Nagpur Bench in Writ Petition No.1309/2008 filed by Vijay Bhujangrao Deshmukh and others vs. the Zilla Parishad, Amravati along with connected Writ Petitions. By judgment dated 13.04.2015, the learned Single Judge recorded that these complainants were working in the scheme for repairing of hand pumps. The impugned order of the Industrial Court was set aside and the Zilla Parishad, Amravati was directed to grant permanency to the complainants/employees.

6. Some employees, who were selected under the TRYSEM and who had approached the Industrial Court at Latur, had approached the learned Division Bench of this Court in Writ Petition No.2043/2013 filed by Murlidhar Tukaram Waghmare and others vs. the State of Maharashtra and others. By judgment dated 14.08.2015, this Court concluded that the TRYSEM employees were only selected under the scheme meant for promoting self employment. They used to repair five hand pumps in a day and they were paid for the number of hand pumps repaired. This Court concluded that there was no employer-employee relationship between the Zilla Parishad and such TRYSEM employees. The petition was dismissed.

7. The learned advocate for the petitioners rightly submits that it is too late for these petitioners to go back to the learned Single Judge and pray for recalling of the order because they withdrew the writ petition with liberty to approach the State and having exhausted that liberty, they now cannot fall back on the writ petition. Hence, the only option is that, as their representation has been rejected by the order dated 24.09.2010 and the petitioners were not personally served with the copy of the said order, which was annexed to Writ Petition No.3691/2013 by the Zilla Parishad along with its reply, the petitioners will have to challenge the said order.

8. The learned counsel for the petitioners further submits that these petitioners are in a peculiar situation wherein, their colleagues have succeeded at Nagpur and at Nashik. They withdrew their petition before the learned Single Judge of this Court and approached the Government thereby, giving up the said remedy. These factors will have to be brought before this Court while challenging the rejection of their representation vide order dated 24.09.2010 as there is disparity between identically placed employees in different Zilla Parishads. She further submits that similarly situated employees in the State of

Rajasthan have succeeded right upto the Honourable Supreme Court. She further submits that many of these petitioners, after having worked continuously as Hand Pump Operators/ Repairers, have superannuated. Some of them are still in employment today.

9. Considering the above and since we do not find any ground for reviewing our order dated 19.03.2015, that the Review Application stands disposed off.

10. If the petitioners challenge the order dated 24.09.2010 by which, their representations have been rejected, they would be at liberty to canvass the ground of time spent in litigation and especially in Writ Petition No.3691/2013 filed on 08.04.2013 till the passing of this order, as a ground for condonation of delay.

11. Needless to state, our observation in the order dated 19.03.2015 in Writ Petition No.3691/2013, which was based on no material having been brought before us at that point of time, would not come in the way of these petitioners if they independently challenge the rejection of their representations.