

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 WRIT PETITION NO.1368 OF 2005

The State of Maharashtra ...PETITIONERS
Through

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Parola, Tq. Parole,
Dist. Jalgaon

VERSUS

Shri Ramesh Narayan Patil, ...RESPONDENTS
R/o. Dholi, Tq. Parola,
Dist. Jalgaon

WRIT PETITION NO. 5078 OF 2003

1. The State of Maharashtra ...PETITIONERS
Through The Secretary,
Forest Department for
Government of Maharashtra,
Mantralaya, Mumbai-34
2. The Conservator of Forest
Department, Dhule Circle,
Near SRP, Camp Road,
Dhule
3. The Dy. Director Conservator of
Forest Department Utter,
Dhule, Vanvibhag, A/o. &
Tq. Shahada, Dist. Dhule

VERSUS

Dhule Zilla Vankamgar, ...RESPONDENT
 Shramik Sangh,
 124 Adarsha Colony,
 Deopur, Dhule

WRIT PETITION NO. 162 OF 2003

1. The State of Maharashtra, ...PETITIONERS
 Through the Deputy Director, (Ori. Resps.)
 Social Forestry, Jalgaon Division,
 Jalgaon
2. The Plantation Officer,
 Social Forestry, Range Office,
 Raver, Tq. Raver, Dist. Jalgaon

VERSUS

Shrikrishna Damu Patil, ...RESPONDENT
 R/o. Udali, Tq. Raver, (Ori. Complts.)
 Dist. Jalgaon

WRIT PETITION NO. 228 OF 2003

1. The State of Maharashtra, ...PETITIONERS
 Through (Ori. Resps)
 Dy. Conservator of Forests,
 Jalgaon Forest Division,
 Jalgaon Dist. Jalgaon
2. Range Forest Officer,
 Employment Guarantee Scheme,
 Varangaon No. 3, Having Office at
 RFO, Edlabad, Dist. Jalgaon

VERSUS

Khandesh Van Shramik Sanghatana, ...RESPONDENT
Trade Union Center, (Ori. Applicant)
Rani Laxmi Chowk, Amalner,
Dist. Jalgaon

WRIT PETITION NO. 1361 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Jalgaon Forest, Colony,
Ring Road, Jalgaon

VERSUS

1. Shri. Premraj Budha Patil, ..RESPONDENTS
R/o. Umarde, Tq. Erandol,
Dist. Jalgaon

WRIT PETITION NO. 1362 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Jalgaon Forest, Colony,
Ring Road, Jalgaon

VERSUS

Shri Bhagwat Nagraj Patil, ...RESPONDENT
R/o. Vikhran, Tq. Erandol, (Ori.Applicant)

Dist. Jalgaon

WRIT PETITION NO. 1363 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Jalgaon Forest, Colony,
Ring Road, Jalgaon

VERSUS

Shri. Tukaram Bhaga Pawar, ...RESPONDENTS
R/o. Padmalay, Tq. Erandol, (Ori.Applicant)
Dist. Jalgaon

WRIT PETITION NO. 1364 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Bha. Va. Ka. No.6, Jamner,
Dist. Jalgaon

VERSUS

Prakash Mahadu Patil, ...RESPONDENT
R/o. Asankheda, Tq. Pachora (Ori.Applicant)
Dist. Jalgaon

WRIT PETITION NO. 1365 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Bha. Va.Ka.No.6, Jamner,
Tq. Jamner, Dist. Jalgaon

VERSUS

Deepali Dagadu Mahajan, ...RESPONDENT
R/o. Krushnapuri, Pachora
Dist. Jalgaon

WRIT PETITION NO. 1366 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
2. Range Forest Officer,
Bha. Va.Ka.No.6, Jamner,
Tq. Jamner, Dist. Jalgaon

VERSUS

Nana Pandit Pawar, ...RESPONDENTS
R/o. Lakh Post, Khurud, Tq. Pachora
Dist. Jalgaon

WRIT PETITION NO. 1367 OF 2005

The State of Maharashtra, ...PETITIONERS
Through (Ori.Resps)

1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon

2. Range Forest Officer,
Bha. Va.Ka.No.6, Jamner,
Tq. Jamner, Dist. Jalgaon

VERSUS

Gulab Budhan Patel,	...RESPONDENT
R/o. Khurhad, Tq. Pachora,	(Ori. Applicant)
Dist. Jalgaon	

WRIT PETITION NO. 1369 OF 2005

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| The State of Maharashtra, | ...PETITIONERS |
| Through | (Ori.Resps) |
1. The Dy. Conservator of Forest,
Jalgaon Forest Division, Jalgaon
 2. Range Forest Officer,
Bha. Va.Ka.No.6, Jamner,
Tq. Jamner, Dist. Jalgaon

VERSUS

Yuvraj Motiraj Thakre,	...RESPONDENT
R/o. Khurhad, Tq. Pachora	
Dist. Jalgaon	

WRIT PETITION NO. 5079 OF 2003

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| 1. The State of Maharashtra, | ...PETITIONERS |
| Through the Dy. Director, | (Ori.Resps) |
| Social Forestry Division, | |
| Near Palesha College, | |
| Jamangari Road, | |
| Dist. Dhule | |
2. The Plantation Officer,

Social Forestry Range,
Nandurbar, Dist. Dhule,

VERSUS

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| <p>1. Azad Shankar Gavit,
Age-40 years, Occu-Service,
R/o. Ranale (Kh),
Taluka and Dist. Nandurbar,</p> <p>2. Gram Sevak,
Grampanchayat Vadzakani,
Tq. Nandurbar, Dist. Nandurbar</p> | <p>...RESPONDENTS</p> |
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WRIT PETITION NO. 5080 OF 2003

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| <p>1. The State of Maharashtra,
Through the Dy. Director,
Social Forestry Division,
Near Palesha College,
Jamangari Road,
Dist. Dhule</p> <p>2. The Plantation Officer,
Social Forestry Range,
Nandurbar, Dist. Dhule,</p> | <p>...PETITIONERS
(Ori.Resps)</p> |
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VERSUS

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| <p>1. Suklal Sonya Kokani,
Age-39 years, Occu- Service,
R/o. Wagha, Nandurbar,
Taluka and Dist. Nandurbar,</p> | <p>...RESPONDENTS</p> |
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WRIT PETITION NO. 5081 OF 2003

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| <p>1. The State of Maharashtra,
Through the Dy. Director,</p> | <p>...PETITIONERS
(Ori.Resps)</p> |
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Social Forestry Division,
Near Palesha College,
Jamangari Road,
Dist. Dhule

2. The Plantation Officer,
Social Forestry Range,
Nandurbar, Dist. Dhule,

VERSUS

1. Phulsing Sonya Kokani, **...RESPONDENTS**
Age-38 years, Occu-Service,
R/o. Waghala, Nandurbar,
Taluka and Dist. Nandurbar,
2. Gram Sevak,
Grampanchayat Waghade,
Tq. Nandurbar, Dist. Nandurbar

Mr. N. T. Bhagat, AGP for the petitioner

Mr. B. R. Warma, Advocate for the respondent No.1 in
wp/1368/2005

Mr. B. A. Darak, Advocate in wp 1361/2005 to
1366/2005 and 1369/2005

Mr. A. S. Shelke, Advocate for the respondent in wp/
162/2003, 228/2003

CORAM : RAVINDRA V. GHUGE, J.

DATE : 14-03-2022

ORAL JUDGMENT :

1. This Court had stayed the direction of the

Industrial Court by which the petitioner was obliged to grant permanency to the respondents. However, all the respondents were to be allotted work and they have continued in employment. Most of them have superannuated.

2. I have considered the strenuous submissions of the learned AGP who has vehemently criticized the impugned judgment of the Industrial Court on the basis of the twelve grounds formulated in the memo of the petition. His primary contention is that the petitioner-Forest Department is not an industry. Whether it is an Industry or not, in the light of the judgment delivered by the Hon'ble Supreme Court in the Bangalore Water and Sewerage Board Vs A. Rajappa and others reported in (1978) 2 SCC 213, has been referred to a larger bench by the Hon'ble Supreme Court (5-Judges Bench) in State of U.P. Vs Jai Bir Singh reported in (2005) 5 SCC 1. He, however, concedes that the said issue is yet not taken up for adjudication by the Hon'ble Supreme Court.

3. The learned Division Bench of this court (Coram: A. S. Oak (as His Lordship then was) and M.

S. Sonak, JJ) in the matter of Chief Conservator of Forest, Pune (T) and another Vs Janabai Sonaba Sarpale reported in 2019 II CLR 28, the Social Forestry Department in the State of Maharashtra has been held to be an industry.

4. The learned Advocate for the petitioner turns to his second limb of submissions that all these respondents were appointed as temporary Mazdoor or Forest Guards and they were working under the Employment Guarantee Scheme (EGS). He has vehemently contended that this court has consistently taken a view that workers working on EGS cannot seek reinstatement, regular employment or permanency in service. A specific stand was taken in the written statement that these workers are working under EGS.

5. I have perused the record available, with the assistance of the learned Advocates for the respective sides. It is obvious that the petitioner has merely taken a stand that these workers were working under EGS. However, no record has been produced before the Labour Court. No documents indicating that these workers were working under the

EGS have been produced.

6. It requires no debate that there are special Cells in various Departments in the State of Maharashtra to deal with EGS employees. A specific officer is entrusted with handling the department of the EGS. All EGS employees are issued with cards indicating their identity and the fact that they are working under EGS. Their payments are made through the EGS funds. Their attendance and pay register are maintained by the officer handling the EGS Department. None of these documents were produced before the labour court and as such the labour court rightly concluded that, besides a mere statement in written statement, there was no evidence to support/substantiate the claim of the petitioners that these respondents were working in EGS.

7. Record reveals that these workers have been working on daily wages for more than three decades. Some joined in 1986 and some joined in 1988. Most of them have superannuated. The impugned judgments have been delivered by the Industrial Court, Jalgaon in 2003. Since these matters were admitted, the respondent/original complainants were continued in

employment on daily wages and have been kept away from the benefits incidental and consequential to regularization, since, this court stayed the direction of the Industrial Court granting them permanency.

8. In view of the above, I do not find that the impugned judgment of the Industrial Court could be termed as being perverse or erroneous. The Industrial Court has rightly followed the law laid down in the Chief Conservator of Forests and another Vs Jagannath Maruti Kondhare reported in (1996) 2 SCC 293 wherein it was directed that if posts are not available, parity in wages on the basis of the principle of "Equal pay for equal wages", has to be followed.

9. In view of the above, these petitions are dismissed. Rule is discharged.

10. Needless to state that the respondents would be entitled to the benefits of difference in wages as was directed by the Industrial Court. Considering that these respondents have been working for more than three decades and many of them have

superannuated, the petitioner-Deputy Conservator of Forest Jalgaon Forest Division shall forward the proposals of these respondents to the appropriate authorities for considering grant of regularization and a deemed date of regularization. Such proposals shall be prepared on or before 30-06-2022 and shall be forwarded to the Principal Secretary Forest Department. Said department shall consider these proposals as expeditiously as possible and in any case on or before 31-11-2022. The eligible candidates would be granted deemed dates of regularization with all monetary benefits incidental and consequential thereto.

11. No costs.

[RAVINDRA V. GHUGE, J.]