

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

905 WRIT PETITION NO.3053 OF 2023

ARTI NILESH DAPSE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND ANOTHER

...
Advocate for Petitioners : Mr. Parag Vijay Barde.

AGP for Respondent No.1 : Mr. S. K. Tambe.

Advocate for Respondent No.2 : Mr. Kishor N. Lokhande.

...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 05th April, 2023.

Per Court:

1. On 30th March, 2023, we had passed the following order:-

“1. This matter was extensively heard. The learned Advocate has pointed out several instances of Municipal Corporations in the State of Maharashtra who have absorbed Medical Officers like the present petitioners, working under the Reproductive and Child Health (RCH) Phase II scheme and inducted them in the service of the Corporation. Several Government Resolutions have been issued by the State Government for certain Municipal Corporations granting regularization to such employees. In WP No.12594/2021 filed by **Syed Moin Vs. The State of Maharashtra and others**, one such GR dated 30.09.2021 absorbing the services of 16 such persons by the Municipal Corporation at Parbhani, was assailed. By order dated 02.12.2021, the Writ Petition was dismissed in view of **Secretary, State of Karnataka and others**

Vs. Umadevi and others [(2006) 4 SCC 1].

2. The learned Advocate representing the Corporation prays for time up to Monday in order to take instructions from the Corporation.

3. As such, list this petition on 05.04.2023 in the “passing orders category”.

4. Until then, the services of these 2 Petitioners would not be dispensed with and as the State Government has proposed to fill in the vacant posts including 4 posts out of which 2 are being occupied by the Petitioners on temporary basis, we direct that the steps to fill in 2 posts of Medical Officers shall not be initiated until further orders.”

2. The learned Advocate for the Municipal Corporation places on record a copy of the communication dated 3rd April, 2023 received by him. The same is marked as ‘X’ for identification.

3. The learned Advocate for the Corporation submits that the Assistant Commissioner (Establishment) has not indicated as to which is the provision under which the proposals of these Petitioners could be considered. The learned Advocate for the Petitioners submits that when several Municipal Corporations have been regularizing the services of such Medical Officers and when one such decision of the Government was assailed in Writ Petition No.12594 of 2021 (*Syed*

Moin Vs. The State of Maharashtra and others), which Petition was dismissed upholding the action of the Government, the Municipal Corporation can forward the proposals of these 2 Petitioners in view of *Secretary, State of Karnataka and others Vs. Umadevi and others, [(2006) 4 SCC 1]*.

4. In view of the above, this Petition is disposed off with a direction to Respondent No.2 to prepare proposals of these 2 Petitioners and similarly situated other employees, if any, and forward them to the State Government in view of both the Petitioners having worked for more than 10 years. Let the Government decide the said proposals in the light of the verdict of this Court dated 2nd December, 2021 delivered in Syed Moin (supra).

5. The Corporation shall send the proposals within 30 days and Respondent No.1 would deal with the said proposals within 60 days. Until such decision of the State Government, the services of these Petitioners would not be dispensed with only for the reason that they are contractual employees. If the Government delivers an adverse order, the same shall not be brought into effect for a period of 30 days.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]