

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

**56 WRIT PETITION NO.3136 OF 2023
TANAJI VASANT VASAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

**AND
87 WRIT PETITION NO.3188 OF 2023
REKHABAI RAJARAM PAWARA ALIAS REKHA RAJARAM
PAWARA AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

**AND
90 WRIT PETITION NO.3195 OF 2023
KUSUM BABALU BHOYE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

**Advocate for the Petitioners : Shri Vishal S. Kadam
AGP for the Respondents/State : Shri S.G. Karlekar**

...

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

DATE :- 21st March, 2023

Per Court :-

(a) Writ Petition No.3136/2023:-

1. The Petitioners have admittedly not completed 10

years in contractual service. Similar issues came up before this Court in a large group of matters, which were dealt with by the judgment dated 31.10.2018 delivered by this Court (Coram : S.V. Gangapurwala and R.G. Avachat, JJ.) in Writ Petition No.5867/2015 (***Madhukar Bhavanrao Sadgir and others vs. The State of Maharashtra and others***). In the said judgment, this Court has recorded in paragraphs 21 and 22 as under:-

“21. In light of the above, we pass the following order:

ORDER

- (i) The respondents shall regularize the services of the petitioners who have completed ten years of service with effect from the date they have completed ten years or the date of filing of writ petition whichever is later.*
- (ii) Those petitioners who are terminated after completion of ten years of service during the pendency of the writ petition shall be reinstated and shall be granted regularization from the date they have filed the petition or after completion of ten years of service whichever is later.*
- (iii) For all practical purposes the services of the petitioners shall be considered regular from the date as observed above. However, we may not grant them actual financial benefit for the period prior to the present order. They will be entitled for the regular pay scale from 01.01.2018.*
- (iv) The respondents shall count the services of the petitioners from their date of appointment continuously for counting ten years of their service.*

22. *We have not considered the cases of those petitioners who have not completed ten years of their service. We leave it to the respondent State to consider their case on its own merits and as per their policy.*

2. This judgment was followed in Writ Petition No.529/2019 (*Satappa Krushnath Powar vs. The State of Maharashtra and others*) and a group of petitions, were decided on 16.12.2020.

3. These judgments were carried to the Honourable Supreme Court in Special Leave Petition (Civil) Diary No.12338/2020. By order dated 20.08.2020, the Honourable Supreme Court (a three Judges Bench) refused to interfere with the judgment delivered by this Court. The SLP was disposed off. The State was directed to regularize the services of the Respondents within three months. A contention on behalf of similar employees was put forth before the Honourable Supreme Court that, they were appointed prior to the introduction of the Right of Children to Free and Compulsory Education Act, 2009 and the requisite educational qualifications as contemplated under the said Act, are not applicable. Such submissions were rejected by the Honourable Supreme Court. It was further

directed that those Respondents, who were regularized under the orders, as Primary Teachers, shall acquire T.E.T. qualifications within a period of five years and in default of which, the State Government would terminate their services.

4. It is conceded that there are interruptions in the contractual employment of these Petitioners and though some of them are appointed in 2008, in the last 15 years, they have worked for less than eight years.

5. Considering the above and as the issue of those employees, who have not completed 10 years, has not been considered by this Court consciously, leaving it open to the State Government to take a policy decision, as is set out in paragraph 22 of the judgment dated 31.10.2018 in *Madhukar Sadgir (supra)*, we do not find that the prayers of the Petitioners that they should not be terminated from services though they are contractual employees, could be entertained. Granting orders of not to terminate and allowing such contractual employees to complete ten years and then to say that as they have completed 10 years, they should be regularized in employment, would not be an appropriate approach of this Court.

6. In the judgment delivered by this Court dated

31.10.2018, which has been sustained by the Honourable Supreme Court, we have followed the law laid down in the *Secretary, State of Karnataka and others vs. Umadevi and others, (2006) 4 SCC 1*. The Petitioners, who are working for six or seven or eight years, cannot be placed at par in the same bracket, with those who have clearly completed 10 years in contractual employment.

7. In view of the above, **Writ Petition No.3136/2023 is disposed off.**

8. Needless to state, if any of these Petitioners complete 10 years in employment, they would be at liberty to rely on the judgments of this Court and accordingly, put forth their request for regularisation, to the Government. We deem it appropriate to record that as and when the candidates may complete 10 years in employment, they would be considered by the State Government in the light of the judgment delivered by this Court in *Madhukar Sadgir (supra)*.

(b) Writ Petition No.3195/2023:-

9. Insofar as Writ Petition No.3195/2023 is concerned, a chart is placed before us wherein, it is indicated that some

candidates are working for more than nine years. The candidates like Bhagwansingh Girase, Ganesh Mohan Shirsath, Nitin Gaikwad and Supriya Hatte, have completed more than ten years.

10. We would, therefore, expect the State Government to scrutinize their cases in the light of the judgment delivered by this Court in *Madhukar Sadgir (supra)* and consider them for regularisation.

11. With these directions, this **Writ Petition No.3195/2023 is also disposed off.**

(c) Writ Petition No.3188/2023:-

12. In this petition, since these two Petitioners, namely, Rekhabai Rajaram Pawara and Vikas Kishor Damare, have worked for more than ten years, we record that these cases would also be considered by the State Government, if they have completed ten years or more, in the light of the view taken by this Court in *Madhukar Sadgir (supra)*. This **Writ Petition No.3188/2023 is, accordingly, disposed off.**