

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

12 WRIT PETITION NO.4126 OF 2023

PRALHAD RAMRAO SAMINDARE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. S. G. Karlekar.

...
AND

13 WRIT PETITION NO.4127 OF 2023

RAJU BHASKARRAO KAGDE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. P. S. Patil.

...
AND

14 WRIT PETITION NO.4128 OF 2023

RAMESHWAR SHANKAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. S. K. Tambe.

...
AND

15 WRIT PETITION NO.4129 OF 2023

BALIRAM KUNDLIK GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. V. M. Kagne.

...

AND

16 WRIT PETITION NO.4131 OF 2023

PRAKASH SHANKARRAO BULBULE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. S. G. Karlekar.

...

AND

17 WRIT PETITION NO.4132 OF 2023

MAHENDRA SANTOSHRAO KAMBLE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. P. S. Patil.

...

AND

24 WRIT PETITION NO.4139 OF 2023

MANGESH RAMRAO DAKE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. S. K. Tambe.

...

AND

25 WRIT PETITION NO.4142 OF 2023

BALAJI VITTHALRAO KALE
VERSUS

THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Vilas M. Humbe.

AGP for Respondent/State : Mr. V. M. Kagne.

...

AND

29 WRIT PETITION NO.4149 OF 2023

ANIL CHANDRAKANT MUGWANKAR

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Vilas M. Humbe.

AGP for Respondent/State : Mr. S. G. Karlekar.

...

AND

97 WRIT PETITION NO.4337 OF 2023

SHILPA GANGADHAR BHUSAWALE

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Vilas M. Humbe.

AGP for Respondent/State : Mr. P. S. Patil.

...

AND

104 WRIT PETITION NO.4345 OF 2023

KIRAN VASANTRAO GARUD

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Vilas M. Humbe.

AGP for Respondent/State : Mr. S. K. Tambe.

...

AND

112 WRIT PETITION NO.4355 OF 2023

AVINASH GULABRAO AMBHORE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. V. M. Kagne.

...
AND

901 WRIT PETITION NO.4442 OF 2023

MADAN ANIL JADHAV
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. S. G. Karlekar.

...
AND

902 WRIT PETITION NO.4443 OF 2023

SARJERAO ARJUN MUNDHE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Vilas M. Humbe.
AGP for Respondent/State : Mr. P. S. Patil.

...

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

DATE : 17th April, 2023.

Per Court:

1. Writ Petition Nos.4442 and 4443 of 2023 are not on board.

Taken on board, by the consent of the parties.

2. All these Petitioners are identically placed. In Writ Petition No.4126 of 2023, the Petitioner has put forth prayer clauses 'B' to 'G' as under:-

- "B. To Direct the respondents to regularize the services of petitioner as data entry operator Class III employee on permanent basis with pay scale applicable to the regular employees in view of the staffing pattern sanctioned by the state government by its resolution dated 28th May 2013 with respondent No.5 Municipal Corporation Parbhani.
- C. Pending hearing and final disposal of this writ petition to direct the respondents to regularize the services of petitioner as Data entry operator Class III employee on permanent basis with pay scale applicable to the regular employees in view of the staffing pattern sanctioned by the state government by its resolution dated 28th May 2013 with respondent No.5 Municipal Corporation Parbhani.
- D. Pending hearing and final disposal of this writ petition to direct the Respondent No.5 not to discontinue petitioner services and restrain the respondent to appoint other Ad Hoc employees on the place of petitioner.
- E. Pending hearing and final disposal of this writ petition directs the respondent municipal corporation Parbhani not to appoint any other employee on the petitioner's post.

- F. To hold and declare that the petitioner is a permanent Data entry operator class III employee by regularizing the services of petitioner on a permanent basis with Municipal corporation Parbhani.
- G. To direct the respondent to give pay scale to the petitioner as applicable to the regular class III employee Rs.20160/- from 1st January 2020 to 30th September 2021 and onwards and unpaid salary from October/November 2022 till today.”

3. It is well settled that in employment with the Government or State instrumentalities, wherein financial sanction of the Government is necessary for creation of posts, there cannot be an order by a judicial forum directing regularization of an individual candidate only because he has approached this Court.

4. These are only 12 individuals working in the Municipal Corporation, who are before the Court seeking orders of not only regularization, but fixation of pay-scale and payments of arrears on the presumption that they are regularized in employment. The settled position of law is that all similarly situated candidates, are to be included in a proposal to be forwarded to the State Government, in the backdrop of available vacancies. Such proposals should set out the service details of all identically placed employees. Considering the length of service, seniority in employment, available vacancies and

legitimate right to be regularized, the State Government has to follow the due procedure and arrive at a decision (*Mukhyadhikari, Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao and others, 2015 (5) Mh.L.J. 75* and *Municipal Council, Tirora and another Vs. Tulsidas Baliram Bindhade, 2016 (6) Mh.L.J. 867*).

5. In view of the above, **all these Petitions are disposed off** with the following directions :-

- A] Respondent Nos.4 and 5 shall collate information with regard to the Petitioners, as well as all similarly situated Data Entry Operators / Clerks / Firemen, etc. who have not approached the Court. Independent proposals be prepared for such categories of identically placed employees, meaning, even those employees, who have not approached the Court.
- B] Such proposals be prepared within a period of 90 days from today and be forwarded to the competent authority for consideration in the backdrop of available vacancies.
- C] Depending upon the length of service and seniority, the competent authority would consider such proposals by carrying out a verification exercise and in the event any such employees are eligible for regularization on available vacant posts and in the absence of any legal

impediment, an appropriate decision may be arrived at by the competent authorities within 90 days from the date of receipt of such proposals.

nga [SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]