

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.36/2023

1. Raghunath Ramchandra Naik, son
of late Ramchandra Naik, aged 49
years, Teacher, resident of House
No.61/2, Kazeredhat, Karanzol,
Valpoi, Sattari, Goa.

2. Babita Shankar Naik, aged 45
years, daughter of Shri Shankar
Naik, Barazan, Valpoi, Sattari, Goa.

3. Vanita L. Boryekar, aged 51 years,
daughter of Shri Laxman Boryekar,
resident of Dhangarwada, Keri
Sattari, Goa.

... PETITIONERS

Versus

1. State Of Goa, through Chief
Secretary, having office at
Secretariat, Porvorim, Goa.

2. Director of Education,
Directorate of Education, Alto
Porvorim, Bardez-Goa.

... RESPONDENTS

Mr Preetam Talaulikar, Advocate *for the Petitioners.*

Mr. D. Pangam, Advocate General with Mr P. Arolkar, Additional
Government Advocate *for Respondent-State.*

**WITH
WRIT PETITION NO.113/2023**

1. Sarita Suryakant Tople,
D/o Suryakant Tople and
wife of Santosh Shantaram Mangji,
46 years of age, married, Indian National,
Resident of H.no 597, Chiwaiwada, Tuem,
Pernem Goa.

2. Prafulla Shriaknt Naik,
d/o Shrikant Laximan Naik and
wife of Dilip Dhaku Naik,
43 years of age, married, Indian National,
Resident of H.no 12, Paunwada Kavlem,
Ponda-Goa.

3. Sheeba Varghese Mathew,
d/o Varghese Kunjavara and
wife of Mathew Mathai,
51 years of age, married, Indian National,
Resident of Flat no A-23, P.W.D. Cottage,
Tonca Caranzalem Goa.

4. Uma Uday Parsekar
d/o Mahadev Bapu Pednekar and
wife of Uday Sitaram Parsekar,
46 years of age, married, Indian National,
Resident of 127 , Parsekarwada harmal,
Pernem Goa.

5. Sangeeta Rajaram Naik,
d/o Rajaram Naik and
wife of Ramtulla badrodin Soid,
49 years of age, married, Indian National,
Resident of H no 15-C, Near Millitary gate,
Naga Masjid, Ponda Goa.

6. Nutan Datta Sawant,
d/o Datta Sawant and
wife of Pratap Shivdas Naik,
44 years of age, married, Indian National,
Resident of H no 1193, Apewal,
Priol, Ponda Goa.

7. Avila Christalina Fernandes,
d/o Gladys Fernandes and
wife of Jose Menino Souza,
38 years of age, married, Indian National,
Resident of H no 2253, Bepquegal,
Curchorem, Sanvordem Goa.

8. Kalpana Vishnu Naik
d/o Vishnu Shanu Naik and
wife of Kishor Krishna Naik,
42 years of age, married, Indian National,
Resident of H no 73/1, Tarvalem,
Shiroda, Ponda Goa.

... PETITIONERS

Versus

1. The Government Of Goa,
Through The Secretary, Education,
Office Of The Secretary, Education,
Government Of Goa, Goa Secretariat
Building, Alto Porvorim, Bardez, Goa 403521

2. Director Of Education,
Government Of Goa,
Office Of The Director Of Education,
Near D.I.E.T., Alto Porvorim, Goa 403521

3. Union Of India,
Through Ministry Of Human Resources
Development, Department Of School
Education And Literacy, Shastri Bhavan,
New Delhi 110115

4. Goa Samagra Shiksha Society
Having its registered office at 1st Floor,
Old SCERT bldg, Adjacent to Technical
Education Office, Porvorim, Goa 403521
Through its Project Director/Member
Secretary

... RESPONDENTS

Mr S. G. Desai, Senior Advocate with Mr V. Parsekar, Ms S. Shelke and Mr T. Rane, Advocates *for the Petitioners*.

Mr. D. Pangam, Advocate General with Mr Manish Salkar, Government Advocate for Respondent No.4 and with Ms Maria Correia, Additional Government Advocate *for Respondent-State*.

**WITH
WRIT PETITION NO.112/2023**

1. Babita Vishnu Naik Alias Reesha
Girish Tulaskar, Daughter of Vishnu
Raghunath Naik And Wife of Girish
Prabhakar Tulaskar, 41 Years Old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. L-33, Near Jyotiba Temple,
Gogol Housing Board,
Margao Goa – 403601

2. Pooja Durgadas Naik,
Daughter of Durgadas Naguesh Naik
And Wife of Akash Ratnakar Phadte,
36 Years old, Married, Indian National,
Primary School Teacher, Resident
of H, No. 393, Tara Niwas, Kamarbhat,
Taulim, Ponda, Goa 403401

3. Kalyani Uttam Naik, Daughter of
Uttam Sawalo Naik And Wife of
Samir Vishwananth Naik, 50 Years

old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 241, Phonch Bhat,
Volvoi, Savoi Verem, Ponda,
Goa 403401

4. Neeta Narayan Gaonkar, Daughter
of Narayan Ramchandra Raikar And
Wife of Gopal Vasant Mapari,
43 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 333, Bazar Wada,
Collem, Dharbandora, Goa 403410

5. Joshila Prabhakar Bhagat, Daughter
of Prabhakar Balsu Bhagat And Wife
of Dinesh Damodar Naik, 40 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 217-80, Farmagudi,
Bandora, Ponda, Goa 403401

6. Suvita Shankar Kerkar, Daughter of
Shankar Vithal Kerkar And Wife of
Ranjit Babi Mhapsekar, 37 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 225, Ghoteli No. 1,
Keri, Sattari, Goa 403505

7. Malu Dharmu Velip, Son of
Dharmu Malu Velip, 48 Years old,
Married, Indian National,
Primary School Teacher,
Resident of H. No. 373,
Vagona Cola, Canacona,
Goa 403702

8. Rosaria Miranda E Almeida,
Daughter of Joao Miranda And
Wife of Menino Almeida,
44 Years old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 525,
Uyanmoll, Fatorda, Margao,
Goa 403602

9. Laxmi Anand Bandekar,
Daughter of Anand Pandurang
Bandekar And Wife of Mancheswar
Chandrakant Naik, 36 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 124/7, Gandhinagar, Collem,
Dharbandora, Goa 403410

10. Nilkant Bhagwant Velip,
Son of Bhagwant Nagu Velip,
50 Years old, Married,
Indian National, Primary
School Teacher, Resident of
H. No. Kamarkhand, Kirlapal/Dabal,
Dharbandora, Goa 403706

11. Seema Shabaji Kaskar, Daughter of
Shabaji Sambhaji Kaskar and Wife
of Sunil Rajaram Naik,
40 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 85, Bazarwada,
Mollem, Dharbandora, Goa 403406

12. Yashoda Baburao Patil, Daughter
of Baburao Kerba Patil, 51 Years old,
Spinster, Indian National,
Primary School Teacher,
Resident of H. No. 508/1,

Vikaswada, Collem, Dharbandora,
Goa 403410

13. Tara Bicaji Bhonsle,
Daughter of Mahabaleshwar
Bhaskar Rawool and Wife of
Bicaji Ramkrishna Bhonsle,
47 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 386/1, Virlossa,
Brittona, Bardez, Goa 403101

14. Kalpana Praveen Maldar,
Daughter of Gajanan Sakharam
Kandolkar and Wife of Praveen
Chandrakant Maldar, 44 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 834/1, Soddo Aldona,
Bardez, Goa 403508

15. Sakhu Sadanand Sudir,
Daughter of Sadanand Laxman Sudir
and wife of Gondu Molu Sudir,
44 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No.1122, Kajalker,
Loliem, Canacona, Goa 403728

16. Rajashri Bhiku Pagi,
Daughter of Bhiku Bombo Pagi
And Wife of Neelu Shanta Pagi,
41 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 38, Mangan,
Panyefond, Canacona, Goa 403728

17. Minakshi Rajaram Raul,
Daughter of Rajaram Raoji Raul

and wife of Ramesh Gawas,
45 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 35 Hivre Khurd,
Post Office Thane, Sattari, Goa 403506

18. Vishranti Tulshidas Pal,
Daughter of Chandrakant Rama
Bhivshet And Wife of Tulshidas
Gopal Pal, 48 Years old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 2080,
Mahamaya Krupa, Sastiwada,
Bordem, Bicholim, Goa 403504

19. Namita Balkrishna Naik,
Daughter of Ramesh Ladu Naik
and wife of Balkrishna Shivram
Naik, 39 Years old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 1205,
Auchitwada, Bicholim, Goa 403504

20. Rupal Bharat Bicholkar,
Daughter of Vithal Raghunath
Naibagkar and wife of Bharat
Sitaram Bicholkar, 48 Years Old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 2500, Opposite Rotary House,
Bicholim, Goa 403504

21. Vijayshree Naguesh Naik Tari,
Daughter of Naguesh Krishna
Naik Tari And Wife of Dinesh
Gopinath Shirodkar, 48 Years Old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 934/10, Chan Sattorem,

Shiroda, Ponda, Goa 403103

22. Navita Baburao Shet Verenkar,
Daughter of Baburao Shivram
Shet Verenkar, 40 Years Old,
Spinster, Indian National,
Primary School Teacher,
Resident of H. No. 458, Chafebhat,
Savoi Verem, Ponda, Goa 403401

23. Sanjana Sanjay Naik,
Daughter of Sawlo Ganesh Naik
And Wife of Sanjay Sonu Naik,
45 Years Old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 6/A, Patnem,
Gaunem, Bandora, Ponda, Goa 403401

24. Leena Shashikant Narvekar
Alias Leena Nitin Borker, Daughter
of Shashikant Sagun Narvekar And
Wife of Nitin Premanand Borker,
41 Years Old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 8/144, Near
Topcola Building, Deulwada, Borim,
Ponda, Goa 403401

25. Urmila Nonu Naik, Daughter
of Nonu Rama Naik and wife of
Suhas Gopi Naik, 45 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 69/A, Konar, Gaunem,
Bandora, Ponda, Goa 403401

26. Vaishali Ramnath Yende,
Daughter of Ramnath Shabi Yende
and wife of Rajesh Balkrishna Shinde,

43 Years old, Married, Indian National,
Primary School Teacher, Resident of
H. No. 1097/A, Palmar Grande,
Chinchinim, Salcete, Goa 403715

27. Pournima Pundalik Korkankar,
Daughter of Pundalik Krishna Korkankar
and wife of Nandakumar Gajanan
Salgaonkar, 44 Years old, Married,
Indian National, Primary School Teacher,
Resident of H. No. 434/B, Deulwada,
Dhargal, Pernem, Goa 403512

28. Madhuri Vasudev Parab,
Daughter of Vasudev Vishwanath Parab
and wife of Arun Krishna Gawas,
36 Years old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 61, Nadora – Madant,
Near Bhutnath Temple,
Bardez, Goa 403513

29. Subla Vithoba Matnekar Alias
Saloni Sawant, Daughter of Vithoba
Mahadev Matnekar and wife of
Shamsunder Yeshwant Sawant,
38 Years of Age, Married, Indian
National, Primary School Teacher,
Resident of H. No. 60, Maloli,
Valpoi, Sattari, Goa 403506

30. Pragati Padmakar Chanekar,
Daughter of Padmakar Vinayak
Chanekar and wife of Nilesh
Keshav Mayekar, 39 Years old,
Married, Indian National,
Primary School Teacher, Resident of
Deepshil Apartment, Block B,
Flat No. Bsc, Second Floor,

Shelpe-Duler, Mapusa, Bardez,
Goa 403507

31. Shruti Surendra Patil,
Daughter of Putalaji Gaikwad
and widow of Late Surendra
Sudham Patil, 45 Years old,
Widow, Indian National,
Primary School Teacher,
Resident of Naik Nagar, Bordem,
Ganesh Apartment, Flat No. 10,
Bicholim, Goa 403504.

32. Sonia Shailendra Tamse,
wife of Shailendra Digambar Tamse,
43 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 140/6,
Dhonsi Nagueshi Bandora,
Ponda, Goa 403401.

33. Ganesh Fondu Kamat,
Son of Fondu Ganesh Kamat,
44 Years old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 1841, Talpane –
Shiroda, Ponda, Goa 403103

34. Bindiya Krishnanath Naik,
Daughter of Krishnanath Madhu Naik
and wife of Santosh Shanu Naik,
39 Years Old, Married, Indian
National, Primary School Teacher,
Resident of H. No.53, Near
Samarth Upasana Kendra, Velop,
Kapileshwari, Ponda, Goa 403401

35. Yatish Govind Verekar,
Son of Govind Datta Verekar,

40 Years Old, Married, Indian
National, Primary School Teacher,
Resident of H. No.37/B, Ambeshi-Pale,
Bicholim, Goa 403105

36. Nameeta Ramchandra Pagi
Alias Anshu Chandrahas Naik,
Daughter of Ramchandra Jano Pagi
And Wife of Chandrahas Ramnath
Naik, 38 Years Old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 185/2,
(I)B Pirwada, Betul, Quepem,
Goa 403726

37. Sampada Balsu Dessai,
Daughter of Balsu Bhadru Dessai
And Wife of Videsh Uday Dessai,
36 Years Old, Married, Indian National,
Resident of H. No. 184-C, Gotton,
Cuncolim, Salcete, Goa 403703

38. Supriya Sundar Arondekar,
Daughter of Sundar Jaiwant
Arondekar And Wife of Sarvesh
Chandrakant Verenkar, 36 Years
Old, Married, Indian National,
Primary School Teacher, Resident
of H. No.54, Sonshi Kudrem,
Sankhali, Bicholim, Goa 403505

39. Trupti Vishnu Tilve,
Daughter of Vishnu Yeshwant
Tilve And Wife of Gajanan
Chandrakant Kavlekar, 39 Years Old,
Married, Indian National,
Primary School Teacher, Resident
of H. No.L-36, Near Daisy
Duck School, Gogol Housing Board,

Margao, Goa 403601

40. Trupti Tulshidas Vetrekar,
Daughter of Tulshidas Narayan
Vetrekar And Wife of Govind
Chandrakant Shivdekar, 38 Years Old,
Married, Indian National, Primary
School Teacher, Resident of
H. No.444, Nava Wada, Collem,
Dharbandora, Goa 403410

41. Lalita Mukund Ghadi,
Daughter of Mukund Shattu Ghadi
And Wife of Sandeep Maruti Pawashe,
40 Years Old, Married, Indian National,
Primary School Teacher, Resident
of H. No.W57, Wilson Nagar,
Davorlim, Margao, Salcete, Goa 403707

42. Darshini Vishal Morajkar,
Daughter of Dnyaneshwar Pundalik
Morajkar And Wife of Vishal
Sadanand Morajkar, 36 Years Old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 1394/22, Chinch-Bhatwadi,
Mayem, Bicholim, Goa 403504

43. Smita Rama Dessai,
Daughter of Rama Raghunath Dessai
And Wife of Shrijay Vishnu Gauns
Dessai , 43 Years Old, Married,
Indian National, Primary School Teacher,
Resident of H. No.6#212, Mahalwada
Bhiunsa, Salcete, Goa 403703

44. Reshma Gokuldas Gaonkar,
Daughter of Gokuldas Shaba Gaonkar
And Wife of Sadanand Bhiku Satarkar,

35 Years Old, Married, Indian National,
Primary School Teacher, Resident
of H. No.304/C, Talaulim, Ponda,
Goa 403401

45. Ranjita Ratnakar Phaldessai,
Daughter of Ratnakar Mosno Phaldessai
And Wife of Anay Vasant Gaonkar,
43 Years Old, Married, Indian National,
Primary School Teacher, Resident
of H. No.183/Ii, Veroda, Cuncolim,
Salcete, Goa 403703

46. Vrushali Dinkar Mhamal,
Daughter of Dinkar Babli Mhamal
And Wife of Shrikrishna Chandreshwar
Naik, 37 Years Old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 106/G-1,
Dattaguru Co-Operative Housing
Society Ltd. Building B, Mala,
Panjim, Goa 403001

47. Mrunal Madan Damale,
Daughter of Vaman Narhar
Kulkarni And Wife of Madan
Madhav Damale, 49 Years Old,
Married, Indian National,
Primary School Teacher,
Resident of H. No. 314,
Shirodwadi, Kasarwada, Mulgao,
Bicholim, Goa 403504

48. Meena Mangesh Komarpant,
Daughter of Mangesh Mahadev
Komarpant And Wife of Prasad
Naguexa Naique, 51 Years Old,
Married, Indian National,
Primary School Teacher,

Resident of H. No.L-411,
Near Maruti Mandir, Davorlim,
Housing Board, Rumdamol, Salcete,
Margao, Goa 403707

49. Reshma Somnath Prabhu,
Daughter of Somnath Laxman Prabhu
And Wife of Govind Mabhlu Raut
Dessai, 42 Years old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 90/2,
Adamarad, Assolda, South Goa 403714

50. Sujata Chandrakant Morajkar,
Daughter of Chandrakant Ramchandra
Morajkar And Wife of Budho
Govind Khodginkar, 37 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 227, Near Gps Khadgini,
Bicholim, Sankhali, Goa 403505

51. Sushma Mahadev Gawas,
Daughter of Laxman Gopal Gaonkar
And Wife of Mahadev Laxman Gawas,
38 Years old, Married, Indian National,
Primary School Teacher, Resident of
H. No. 102, New Colony, Morle, Gullem,
Sattari, Goa 403505

52. Vanita Shaba Naik,
Daughter of Shaba Kalu Naik
And Wife of Nilesh Govind Naik,
41 Years old, Married, Indian National,
Primary School Teacher, Resident of
H. No. 151/1, Undir-Bandora, Ponda,
Goa 403401

53. Akshada Ankush Wadikar,

Daughter of Ladu Vishnu Morajkar
And Wife of Ankush Yesso Wadikar,
49 Years old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 250, Wadi Talauli, Ponda,
Goa - 403401

54. Sandhya Vasu Naik, Daughter
of Vasu Kusoo Naik And Wife of
Atul Yeshwant Naik, 48 Years old,
Married, Indian National, Primary
School Teacher, Resident of H. No. 1,
Near Saraswati Mandir, Daag-Ponda,
Ponda, Goa 403401

55. Ayodhya Arjun Patyekar,
Daughter of Arjun Shaba Patyekar,
37 Years old, Spinster, Indian National,
Primary School Teacher, Resident
of H. No. 718, Kulan Surla, Velguem,
Bicholim, Goa 403105

56. Sunita Rama Mapari, Daughter
of Laxman Babu Boryekar And Wife
of Rama Laxman Mapari, 53 Years old,
Married, Indian National, Primary
School Teacher, Resident of
H. No. 241, Deulwada, Kadne,
Sankhali, Goa 403505

57. Reshma Dada Rajput,
Daughter of Dada Siddhanath Rajput
And Wife of Nitesh Narayan Halarnkar,
40 Years old, Married, Indian National,
Primary School Teacher, Resident
of H. No. Chirantan Apartment,
Block B, F-2, Neugi Nagar, Panjim,
Goa 403001

58. Smita Sadanand Sawant,
Daughter of Sadanand Shabi Sawant
And Wife of Saiprasad Ramdas
Sarmalkar, 36 Years old, Married,
Indian National, Primary School Teacher,
Resident of H. No. 1376/8, Yashoda
Niwas, Behind Kavlekar S.M, G.H.B
Colony, Porvorim, Goa 403521

59. Dhulo Gango Pandarmisal,
Son of Gango Dhulo Pandarmisal,
42 Years old, Unmarried, Indian
National, Primary School Teacher,
Resident of H. No. 120, Kondemoll,
Collem, Dharbandora, Goa 403410

60. Vandana Basawani Kori,
Daughter of Basawani Dhullappa
Kori And Wife of Damodar
Shantaram Ganachari, 41 Years
old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 502/1, Bag Wada, Rivona,
Sanguem, Goa 403705

61. Sampada Shankar Madgut,
Daughter of Shankar Dattaram
Nadgut And Wife of Vivek Hari
Karpe, 36 Years old, Married,
Indian National, Primary School
Teacher, Resident of H. No. 30,
Khuti Wada, Sanguem, Goa 403704

62. Bindiya Bhalchandra Narvekar,
Daughter Of Anant Dattaram Sirsat
And Wife Of Bhalchandra Babaji
Narvekar, 50 Years Old, Married,
Indian National, Primary School
Teacher, Resident Of H. No. 47,

Walshi, Bicholim, Goa 403504

63. Vidya Keshav Mhalshekar,
Daughter of Keshav Govind Mhalshekar
And Wife of Ravi Vishram Malik,
38 Years Old, Married, Indian National,
Primary School Teacher, Resident of
H. No. 468, Opposite To Gaula Clouser
Company, Upper Harvalem, Sankhali,
Bicholim, Goa 403505

64. Prasadhi Dattaram Pagi,
Daughter of Dattaram Raisu Pagi
And Wife of Satish Yeshwant Gadekar,
37 Years Old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 169/A, Golleaband, Velim,
Salcete, Goa 403723

65. Manisha Ramu Naik, Daughter
of Ramu Naik And Wife of Jayesh
Lotlikar, 37 Years Old, Married, Indian
National, Primary School Teacher,
Resident of H. No. 13, Opposite
Bambolkar Building, Portais Panaji,
Goa 403001

66. Poornima Ramdas Phaldessai,
Daughter of Ratnakar Masno Phaldessai
And Wife of Ramdas Gopi Phaldessai,
47 Years Old, Married, Indian National,
Primary School Teacher, Resident
of H. No. 623 B, Mudkud, Karashirmoll,
Agonda – Canacona, Goa 403702

67. Varsha Shantaram Gaonkar,
Daughter of Shantaram Ladko Gaonkar
And Wife of Kusta Vaman Hoble,
37 Years Old, Married, Indian National,

Primary School Teacher, Resident
of H. No. 11, Orgao, Marcela,
Ponda, Goa 403107

... PETITIONERS

Versus

1. The Government of Goa,
Through The Secretary, Education,
Office of The Secretary, Education,
Government of Goa, Goa Secretariat
Building, Alto Porvorim, Bardez,
Goa 403521

2. Director of Education,
Government of Goa, Office of
The Director of Education,
Near D.I.E.T., Alto Porvorim,
Goa 403521

3. Union of India, Through
Ministry of Human Resources
Development, Department of School
Education And Literacy, Shastri Bhavan,
New Delhi 110115

4. Goa Samagra Shiksha Society
Having its registered office at 1st Floor,
Old SCERT bldg, Adjacent to Technical
Education Office, Porvorim, Goa 403521
Through its Project Director

... RESPONDENTS

Mr S. G. Desai, Senior Advocate with Mr V. Parsekar, Ms S.
Shelke and Mr T. Rane, Advocates *for the Petitioners*.

Mr. D. Pangam, Advocate General with Mr Manish Salkar,
Government Advocate for Respondent No.4 and with Mr Deep
Shirodkar, Additional Government Advocate *for Respondent-State*.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

Reserved on: 30th AUGUST 2023

Pronounced on: 25th SEPTEMBER 2023

JUDGMENT: (Per M. S. Sonak, J.)

1. Mr S. G. Desai, learned Senior Advocate appears along with Mr. V. Parsekar and Mr Tejas Rane for the petitioners in Writ Petitions No.112/ 2023 and No.113/2023. Mr Preetam Talaulikar appeared for the petitioners in Writ Petition No.36/2023. Mr D. Pangam, learned Advocate General appeared for the State with Mr Manish Salkar, learned Government Advocate and Mr P. Arolkar, Mr Deep Shirodkar and Ms Maria Correia, learned Additional Government Advocates for the State-Respondents. Accordingly, Mr Desai and Mr Talaulikar were heard for the Petitioners, and the learned AG for the Respondent-State.

2. Rule is issued in all these petitions. Further, with the consent of and at the request of learned counsel for the parties, the Rule is made returnable immediately. Even otherwise, we had directed the parties to complete the pleadings so that these petitions could be disposed of finally at an early date.

3. Learned counsel for the parties agree that substantially common issues of law and fact arise in these petitions. Therefore, these petitions could be disposed of by a common judgment and

order. At the request of the learned counsel for the parties, Writ Petition No.112/2023 is taken as the lead matter.

4. The petitioners were appointed as primary teachers on contractual basis on various dates post the decision of the Constitution Bench in *The Secretary, State of Karnataka and Others v/s. Umadevi and Others – (2006) 4 SCC 1* under the Goa Sarva Shiksha Abhiyan (GSSA), a society registered under the Societies Registration Act, 1860. They now seek regularization of their services as “Government Primary Teachers” along with all consequential benefits like regular pay scale, retiral benefits, etc. The petitioners also challenge advertisements issued by the State on 01.12.2021 inviting applications for filling up posts of Government Primary School Teachers on regular basis in various Government Primary Schools in the State of Goa. In short, the petitioners seek regularization of their contractual services and object to the State Government filling up the posts of Government Primary School Teachers on regular basis by issuing public advertisement and following the prescribed selection process.

5. Mr Desai and Mr Talaulikar submitted that the GSSA was a special purpose vehicle (SPV) constituted by the State Government to give effect to the mandate of Articles 21A and 45 of the Constitution of India to provide for free and compulsory education to all children upto the age of fourteen years. They submitted that the GSSA answers the definition of State under Article 12 of the Constitution and therefore, the injunctions in

Part-III of the Constitution apply to the GSSA. They submitted that the State of Goa has deep and pervasive control in the functioning of GSSA and accordingly, there is no significant distinction between GSSA and the State of Goa when it comes to implementation of the constitutional mandate in Articles 21A and 45 concerning providing of free and compulsory education to all children upto the age of fourteen years.

6. Mr Desai and Mr Talaulikar submit that all the petitioners were appointed as primary school teachers on contractual basis against almost 360 vacancies which were advertised by GSSA on or about 21.06.2006. They pointed out that all the applicants who applied in pursuance to the public advertisement were called for interviews held by a selection committee. Based upon the recommendations of the selection committee, the petitioners were appointed on contractual basis against fixed remuneration which was revised/increased from time to time. Learned counsel submit that there is no quantitative or qualitative difference between the duties discharged by the petitioners as contractual teachers and their regular counterparts i.e. the Government Primary School Teachers employed in Government Primary Schools in the State of Goa.

7. Mr Desai and Mr Talaulikar submitted that most of the petitioners, at the time of their initial appointments possessed the qualifications prescribed in the advertisements. They pointed out that some of the petitioners may not have possessed the qualifications prescribed in the recruitment rules for regular

appointments to the post of Government Primary School Teachers at the time of their initial appointments on contractual basis. However, learned counsel submitted that even the rules provided for relaxation and/or acquisition of such qualifications after securing regular appointment. Learned counsel submitted that by now all the petitioners possess the necessary qualifications prescribed in the recruitment rules for regular appointment to the posts of Government Primary School Teachers.

8. Mr Desai and Mr Taulikar submitted that most of the petitioners have completed more than ten to fifteen years of services as contractual teachers uninterruptedly or in any case, after ignoring the artificial breaks. They submitted that the fact that their employment continued for this length of time, indicates their work was of perennial nature. They submitted that the State, by Office Memorandum (OM) dated 24.06.2015 has prescribed that contractual appointments including extensions shall not exceed a period of three years. They submit that considering this OM and the fact that the petitioners' contractual employment ranged between ten to fifteen years shows that the petitioners' appointments, though styled as "contractual", were in fact, "regular". Accordingly they submit that the denial of benefits of regular employment to the petitioners violates the constitutional mandate in Articles 14 and 16, and in fact, amounts to exploitation of the petitioners.

9. Mr Desai and Mr Taulikar submit that since the petitioners were appointed under a special scheme and by

adopting a special procedure, the 2005 Recruitment Rules for regular appointments of Government Primary School Teachers were not applicable to the petitioners. They submit that the fact that the petitioners were continued in service for ten to fifteen years coupled with the fact that the Government has itself issued advertisement to fill 142 posts of Government Primary School Teachers, shows that the petitioners were appointed against the regular vacancies by adopting a fair and transparent recruitment procedure. Learned counsel submitted that the appointment of the petitioners was not illegal or unconstitutional and therefore, certain observations in *Umadevi (supra)*, *State of Mysore v/s. S. V. Narayanappa – 1966 SCC OnLine SC 23*, *R. N. Nanjundappa v/s. T. Thimmiah– (1972) 1 SCC 409* and *B. N. Nagarajan and Others v/s. State of Karnataka & Others – (1979) 4 SCC 507* would not apply. Instead, learned counsel submitted that the benefits of the favourable observations and directions in these decisions would apply to the case of the petitioners.

10. Mr Desai referred to some answers given by the MLAs and the Hon'ble Chief Minister on the floor of the Legislative Assembly in 2023 by referring to Exh.P1. Based on such answers and other material, the learned counsel for the petitioners submitted that the appointment of the petitioners was regular though, it was incorrectly shown to be contractual. Learned counsel submitted that this was done to exploit the petitioners and deny them regular pay-scale and other benefits available to regularly appointed Government Primary School Teachers.

11. Mr Desai and Mr Talaulikar relied upon paragraph 53 of the Constitution Bench decision in *Umadevi (supra)*. They submitted that in terms of the observations and directions in this paragraph, the petitioners are entitled to the benefits of a one-time regularisation measure. They submitted that the State, having breached the other directions in *Umadevi (supra)* on the issue of engagement of contractual employees, is now estopped from denying benefits of regularisation to the petitioners.

12. Mr Desai and Mr Talaulikar submitted that the petitioners' case is entirely covered by the decisions of the Division Bench of this Court in *Madhukar Bhavanrao Sadgir & Ors. v/s. State of Maharashtra & Ors. - 2019 (2) Mah. L. J. 119*, *Bhaskar Ramchandra Patil & Anr. v/s. The State of Maharashtra– Writ Petition No.529/2019 decided on 16.12.2020* and *Satappa Krushnath Powar v/s. State of Maharashtra – 2020 SCC OnLine Bom 10393*. They pointed out that even the Special Leave Petitions against the above decisions were dismissed by the Hon'ble Supreme Court.

13. Mr Desai and Mr Talaulikar pointed out that the petitioners' case is also covered on all fours by the decisions of the Tripura High Court in the case of *Sajal Deb and Ors. v/s. The State of Tripura and Ors. - MANU/TR/0127/2021*. Learned counsel submitted that this was a case concerning teachers appointed on a contractual basis under the Sarva Shiksha Abhiyan whose services were ordered to be regularised. Learned counsel submitted that the decision in *Sajal Deb (supra)* has, to date, not

been upset by the Hon'ble Supreme Court, and therefore, the same should be followed for granting reliefs to the petitioners.

14. Mr Desai and Mr Talaulikar submitted that the petitioners cannot be faulted for not acquiring the Teachers' Eligibility Test (TET) qualification within the prescribed period because there was a lapse on the part of the State Government and its instrumentalities in holding such test periodically. In any case, learned counsel for the petitioners contend that this requirement of clearing TET was inapplicable to the petitioners given the peculiar facts of their case.

15. Mr Desai and Mr Talaulikar submitted that the fact that some of the petitioners were unable to complete the in-service training or obtain a Diploma in Elementary Education within five years of their appointment was not attributable to the petitioners because the State or its instrumentalities failed to provide necessary facilities for completion of the in-service training or for obtaining necessary Diploma. Mr Desai and Mr Talaulikar pointed out that under the Right to Education Act, 2009 (RTE Act) and the 2010 Rules made thereunder, the State Government was responsible for providing such facilities to enable the teachers who did not have such qualifications to acquire the same within the prescribed period of five years from the commencement of the RTE Act. Learned counsel submitted that since there was a lapse on the part of the State Government or its instrumentalities, the petitioners cannot be faulted for not

acquiring such qualification or for not qualifying within the prescribed period.

16. Mr Desai and Mr Talaulikar submitted that the GSSA has now been renamed as Goa Samagra Shiksha Abhiyan possibly after the Central Government discontinued its earlier scheme. Learned counsel submitted that though both these entities have been impleaded by way of abundant caution, no replies have been filed on their behalf. Learned counsel submitted that all factual contentions in the petitions are deemed to have been admitted by these two entities.

17. Mr Desai and Mr Talaulikar submitted that this is a case of unequal bargaining power between the petitioners and the State or its instrumentalities. Therefore, they submitted that the petitioners should not be tied down to the terms and conditions contained in their letters of appointment or in the letters by which their contractual terms came to be extended from time to time. Learned counsel relied upon *Somesh Thapliyal & Ors. v/s. Vice Chancellor, NB Garhwal University & Ors. - MANU/SC/0597/2021*.

18. Mr Desai and Mr Talaulikar submitted that the decisions relied upon by the learned Advocate General on behalf of the respondents turn on their own facts and were distinguishable. Accordingly they submitted that no reliance could be placed upon the said decision to deny reliefs to the petitioners.

19. Mr Desai and Mr Talaulikar finally submitted that the Rule ought to be made absolute in each of these petitions by granting the petitioners benefits of regularization along with all consequential benefits with retrospective effect.

20. Mr D. Pangam, learned Advocate General for the State of Goa submitted that the petitioners were engaged on purely a contractual basis pursuant to advertisement dated 21.06.2006 by the GSSA, a Society registered under the Societies Registration Act, 1860. He pointed out that the “Sarva Shiksha Abhiyan” was a Central Government scheme under which 85% of the grants were provided by the Central Government during the 9th Plan, 75% under the 10th Plan and 50% under the subsequent plans. The advertisement and the appointment letter had made it clear that the appointment was purely contractual against a consolidated salary. Even the retired teachers or teachers not fulfilling the qualification as trained graduates were also allowed to apply.

21. Learned AG submitted that the petitioners were appointed by GSSA and not the State Government. He pointed out that the rules relating to reservations or rules framed under Article 309 of the Constitution relating to appointments of Government Primary School Teachers were not followed for making such purely contractual appointments. He pointed out that these appointments were made to facilitate the “remedial teaching”. The terms and conditions clearly stipulated that such purely contractual appointments would not bestow any claim for regular

appointments. The contractual appointments were for a specified term and the petitioners had submitted declaration that they would not claim benefits granted to regular teachers such as leave, vacation salary, etc. because the petitioners were not entitled to the same.

22. Learned AG submitted that the specific tenures were extended from time to time. However, he pointed out that the file notings indicate that no extension or re-appointment was to be granted after 2010 or in any case, after 2011-12. Learned AG however submitted that the petitioners resorted to agitations and strikes as a result of which their appointments purely on contractual basis were continued but with the clear understanding that there would be no question of regularisation. He pointed out that it is only after the advertisements were issued to fill up the posts of Government Primary School Teachers, that the present petitions were instituted to question the process of regular appointments and to seek regularization inter alia against the advertised regular vacancies in the posts of Government Primary School Teachers.

23. Learned AG submitted that the purely contractual posts against which the petitioners were employed cannot be called as sanctioned posts to claim the benefits of regularization. He submitted that the selection process was nowhere comparable to a regular selection process contemplated under the Recruitment Rules. He submitted that the appointments were based entirely on Viva Voce, which is impermissible. He submitted that the

petitioners did not possess qualifications prescribed under the Recruitment Rules of Government Primary School Teachers at the time of their contractual engagement.

24. Accordingly Learned AG submitted that the contractual appointments of the petitioners cannot be styled as merely “irregular” under the constitutional scheme and within the meaning assigned to this expression in paragraph 53 of *Umadevi (supra)*. Learned AG submitted that *Umadevi (supra)* is a complete answer to most of the contentions raised on behalf of the petitioners and based upon this decision of the Constitution Bench, present petitions deserve to be dismissed.

25. Learned AG submitted that the benefits of one time measure of regularization in paragraph 53 of *Umadevi (supra)* would not apply to the petitioners, who were appointed after the decision of the Constitution Bench in *Umadevi (supra)*. He submitted that the State, consistent with the observations in *Umadevi (supra)* has issued memoranda prohibiting contractual appointments for the periods exceeding three to five years. However, when it came to continuing contractual appointments of the petitioners, they resorted to strikes and agitations.

26. For all the above reasons, learned AG submitted that these petitions may be dismissed. Learned AG submitted that at the highest, the State, would relax the age qualification prescribed in the recruitment rules should any of the qualified petitioners

participate in the selection process for filling in the vacancies of Government Primary School Teachers on a regular basis.

27. The rival contentions now fall for our determination.

28. In *Ganesh Digamber Jambhrunkar and Others v/s. State of Maharashtra and Others – 2022 SCC Online Bom 2676*, a Coordinate Division Bench dealing with a petition seeking regularisation of services of teachers recruited on a contractual basis under a Government of India Scheme “Sub Sector Development Programme for Technical Education / Technical Education Policy Improvement Programme of Government of India” noted that no discussion on this subject could be complete without reference to the landmark decision of the Constitution Bench in *Umadevi (supra)*.

29. The Division Bench noted that *Umadevi(Supra)* marks a critical turning point on the issue of regularisation of services of ad-hoc or temporary employees while considering the issue of whether the State can frame a scheme for regularisation of services of ad-hoc/temporary/daily wagers appointed in violation of constitutional scheme or those appointed with a clear stipulation that such appointments would not confer any right on them for such regularisation. The Constitution Bench also considered the issue of whether the courts can issue mandamus for the regularisation or absorption of such appointees.

30. The Constitution Bench in *Umadevi (supra)* held that when a person enters temporary employment or gets engaged as a contractual or casual worker and such engagement is not based on a proper selection as recognised by proper rules or procedure, such a person can be said to be aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and where it is so required by law after consultation with the Public Service Commission.

31. The Constitution Bench, therefore, held that temporary, contractual or casual employees cannot successfully advance the theory of legitimate expectation. It cannot also be held that the State has held out any promise while engaging such persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.

32. The Constitution Bench considered but rejected the arguments about the State practising exploitation by breaching Articles 14 and 16 of the Constitution by engaging the contractual employees when the work available was of a perennial nature. The Constitution Bench also considered the arguments about unfairness, payment of unequal wages, unequal bargaining power, etc., but rejected all such arguments. The Constitution

Bench held that those who were working on daily wages formed a class by themselves, they cannot claim that they are discriminated against against those who have been regularly recruited based on the relevant recruitment rules. The Constitution Bench also held that there was no fundamental right in those who have been employed on daily wages or temporarily or on a contractual basis to claim that they have a right to be absorbed in service.

33. The Constitution Bench held that the persons employed on a contractual basis cannot be said to be holders of a post since a regular appointment can be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees cannot be extended to claim equal treatment with those who were regularly employed because this would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules or against any sanctioned post.

34. The Constitution Bench held that the State's action in not regularising employees could not be said to be violative of the rule of law. The rule of law compels the State to make appointments consistent with the constitutional scheme under Articles 14 and 16 of the Constitution. The Court noted that in most cases, the employees may have worked for some length of time, but that might not be a valid consideration to order regularisation or declare such employees as permanent. The Court held that

accepting an argument of this nature would mean that the State would be permitted to perpetuate an illegality in the matter of public employment, and that would be a negation of the constitutional scheme.

35. The Constitution Bench held that whenever the court is approached for relief by way of a writ, the court has to necessarily ask itself whether the person before it had any legal right to be enforced. Considering in the light of the very constitutional scheme, it cannot be said that the employees have been able to establish a legal right to be made permanent even though they have never been appointed in terms of the relevant rules or in adherence of constitutional scheme in Articles 14 and 16.

36. An attempt was made by a Two-Judge Bench in *U.P. State Electricity Board v/s. Pooran Chandra Pandey – (2007) 11 SCC 92* to water down the binding effect of the decision of the Constitution Bench in *Umadevi (supra)*. However, a Three Judge Bench in *Official Liquidator v/s. Dayanand & Ors. – (2008) 10 SCC 1* clarified that the comments and observations made by the two-Judge Bench in *Pooran Chandra Pandey (supra)* should be read as obiter, and the same should neither be treated as binding by the High Courts, Tribunals and other judicial foras nor they should be relied upon or made the basis for bypassing the principles laid down by the Constitution Bench in *Umadevi (supra)*.

37. At paras 90 and 91, the Three Judge Bench in *Official Liquidator v/s. Dayanand (supra)* observed as follows:-

“90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass root will not be able to decide as to which of the judgment lay down the correct law and which one should be followed.

91. We may add that in our constitutional set up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the Constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the

individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law.”

38. Now, applying the above principles to the facts of the present case, we find it difficult to grant the petitioners benefit of regularisation of their contractual services particularly in the absence of any material to show that the petitioners were appointed against any sanctioned posts after adoption of a selection process consistent with the constitutional scheme under Articles 14 and 16. The grant of relief of regularisation therefore, would run counter to the law laid down by the Constitution Bench in *Umadevi (supra)* and several other decisions of the Hon’ble Supreme Court and this court on the subject.

39. There is no dispute that the petitioners applied for contractual appointments as remedial teachers pursuant to an advertisement issued by the GSSA. Even if learned AG’s argument about the advertisement being issued by GSSA and not the State Government or the contractual engagement being made by GSSA and not the State Government is not accepted for the moment, we cannot be oblivious to the fact that the advertisement spoke about contractual engagement and not regular appointment. There is no material whatsoever on record to suggest that the contractual engagement was against any sanctioned post. Instead, the material on record suggests that the contractual engagement

was under the Sarva Shiksha Abhiyan scheme formulated and partly funded by the Central Government.

40. In *Official Liquidator v/s. Dayanand & Ors. (supra)* at paras 52 and 75, the Hon'ble Supreme Court observed that though the Official Liquidators appear to have issued advertisement for appointing company paid staff and made some sort of selection, the most qualified and meritorious persons must have shunned from applying because they knew that the employment will be for a fixed term on fixed salary and their engagement will come to an end with the completion of liquidation proceedings. As a result of this only the mediocres must have responded to the advertisements and joined as company paid staff. The Court held that in such a scenario, a direction for absorption of all the company paid staff has to be treated as violative of the doctrine of equality enshrined in Articles 14 and 16 of the Constitution.

41. The Court, by reference to Article 141 of the Constitution reminded all concerned that the decision in *Umadevi (supra)* is binding on all Courts "including this Court" till the same is overruled by a larger bench. The Court noted that the ratio of the Constitution Bench in *Umadevi (supra)* has been followed by different two judge benches for declining to entertain the claim of regularization of service made by ad-hoc/temporary/daily wages/casual employees or for reversing orders of the high courts granting such relief to the employees. The Court held that the decision in the case of *Pooran Chandra Pandey (supra)* which had

attempted to dilute the Constitution Bench judgment by suggesting that the said judgment could not be applied to a case where regularisation had been sought in pursuance of Article 14 of the Constitution could not be construed as a binding precedent.

42. Thus, merely because GSSA issued an advertisement before the petitioners were engaged on a contractual basis does not lead to an inference that the petitioners' contractual engagement was some regular appointment consistent with the constitutional scheme under Articles 14 and 16. Again, even the selection committee which selected the petitioners as contractual employees was constituted on an ad-hoc basis. This selection committee focussed almost entirely on the interview or the Viva Voce. Thus, 100% weightage was granted to the process of interviews or Viva Voce. Learned AG submitted that for this nature of posts, providing 100% weightage to the process of interviews or Viva Voce would be contrary to several decisions of the Hon'ble Supreme Court and the constitutional guarantees in Articles 14 and 16.

43. A Coordinate Division Bench accepted similar contention of the Learned AG in *Rupin Gangaram Naik v/s. State of Goa & Ors. – Writ Petition No.135/2022 (F)* and connected matters decided on 25.01.2022. In the said writ petition and connected matters, Technical Assistants appointed on a contractual basis in the Public Works Department had sought for regularisation of their services because they had completed more than ten years of

service as contractual employees. The Coordinate Division Bench dismissed these petitions by rejecting the arguments and contentions very similar to those raised in the present petitions.

44. Most of the arguments similar to those in the present petitions were considered but rejected in *Laxmikant Saji v/s. State of Goa & Ors. – Writ Petition No.2206/2021 (F)* and the connected petitions were disposed of on 05.04.2022. The Division Bench considered but distinguished the decisions in *Nihal Singh (supra)* and *Narendra Kumar Tiwari (supra)* and others. The reasoning based upon which these decisions were distinguished equally applies to the present petitions.

45. In *Laxmikant Saji (supra)*, the petitioners were selected based upon a selection process with cent-percent emphasis only on the marks obtained in the oral interview, although there was no dispute that the posts to which they applied were Group 'D' posts. The Court therefore, accepted the State's contentions that such recruitment would not be merely irregular as contended by the petitioners but that the same was illegal, being in violation of the State's policy and constitutional scheme under Articles 14 and 16 of the Constitution.

46. The petitioners in the present petitions claim regularisation in the post of Government Primary School Teachers. There are recruitment rules governing the posts of Government Primary School Teachers. Admittedly, the qualifications referred to in the advertisement based upon which the petitioners were

contractually engaged do not correspond to the qualifications prescribed in the recruitment rules. The petitioners themselves admitted that some of them did not even fulfil the qualifications prescribed in the advertisement or the Rules.

47. Now, a contention is raised that such qualifications could always have been obtained later on. The recruitment rules, in a situation where qualified candidates are unavailable, refer to the acquisition of such qualifications within a specified term, i.e. five years or so from the date of appointment. Even this requirement is not complied with by most of the petitioners. The argument that it was the State's responsibility to enable the petitioners to acquire such qualifications or to send the petitioners for in-service training or to conduct the TET on a regular basis cannot be accepted or, in any case, based upon the same, no directions can be issued for regularisation of the petitioners' contractual services. No such obligation, statutory or otherwise, towards contractual employees was spelt out from the material placed on record by the Petitioners.

48. Based upon the material on record, the petitioners' contractual engagement against the unsanctioned posts or without following the mandate of Articles 14 and 16 cannot be regarded as merely "irregular" and not against the constitutional scheme, as explained in *Umadevi (supra)*. Therefore, the attempt to claim the benefits of the window provided in para 53 of *Umadevi (supra)* cannot succeed. Moreover, this is a case where the petitioners had not even been contractually engaged before

the Constitution Bench decided *Umadevi (supra)* on 10.04.2006, and therefore, there was no question of their completing ten years of uninterrupted service as of the date when the judgment in *Umadevi (Supra)* was pronounced.

49. In *Union of India v/s. Lalita V. Mertia – 2021 SCC Online Bom 3363*, the Division Bench of this Court held that as of the date of pronouncement of the decision in *Umadevi (supra)*, i.e. April 10, 2006, the respondent Lalita Mertia had not completed even six years of service. The Division Bench held that the directions in para 53 of *Umadevi (supra)* of extending an opportunity to irregular but duly qualified appointees working on duly sanctioned posts was made keeping in mind those who, without the intervention of the Court, had worked for ten years or more. However, the Division Bench noted that such a direction would not apply to those who had not worked for ten years or more as of 10.04.2006. The court held that it was never the intention of the court to permit even those who had not completed at least 10 years as of 10.04.2006 to be considered for regularisation after completing the balance period.

50. In *Dr. M. V. Ramesh v/s. Union of India & Anr. – WP 64 of 2015 decided on 22.03.2021*, the relief of regularisation to an administrative officer of the National Center of Antarctic and Ocean Research was declined after finding that the petitioner had not been appointed against a sanctioned post even though he may have continued in service for almost seventeen years. The Court referred to *State of Rajasthan v/s. Daya Lal – (2011) 2 SCC 429*,

Accounts Officer (A & I) AP State Road Transport Corporation v/s. P. Chandra Sekhara Rao & Ors. - (2006) 7 SCC 488 and *Surinder Prasad Tiwari v/s. Uttar Pradesh Rajya Krishi Utpadan Mandi Parishad & Ors. - (2006) 7 SCC 684* and declined to grant the relief of regularisation to any employee continued in service for seventeen years against an unsanctioned post.

51. The Court held that the constitutional scheme envisages equality of opportunity in public employment and the Courts cannot countenance appointment in public offices which have been made against such scheme. The Court held that in the backdrop of the constitutional philosophy, it would be improper for the Courts to give direction for the regularisation of services of contractual employees who could not be said to have been appointed by following the procedure laid down in Articles 14, 16 and 309 of Constitution of India. The Court also referred to *Director, Institute of Management Development, Uttar Pradesh v/s. Pushpa Srivastava (Smt.) – (1992) 4 SCC 33*, in which it was held that no right of regularisation in service can be claimed in the absence of any rule providing for regularisation of service after a specified period of service.

52. The Hon'ble Supreme Court vide order dated 04.08.2023 dismissed Petition for Special Leave to Appeal (C) No.10210 of 2022 against the Division Bench's decision in *Dr. M. V. Ramesh (supra)*.

53. In *Ganesh Jambhrunkar (supra)*, the relief of regularisation of services of contractual teachers was rejected by a Coordinate Division Bench after considering arguments very similar to those raised by and on behalf of the petitioners in the present petitions. Before the Division Bench, reliance was placed on the decision in *Sachin Ambadas Dawale v/s. The State of Maharashtra - (2014) 2 Mah. L.J. 36*. However, the Division Bench pointed out how a clarificatory order dated 27.04.2017 was issued in the said matter, in which it was clarified that the decision in *Sachin Ambadas Dawale (supra)* does not lay down the ratio that persons who are appointed on purely contractual basis without following the due selection process as laid down in *Umadevi (supra)* would also be entitled for regularisation of their services.

54. Petition for Special Leave to Appeal (C) No.2543 of 2023 against the decision in *Ganesh Jambhrunkar (supra)* was dismissed by the Hon'ble Supreme Court by a speaking order. Before the Hon'ble Supreme Court, reliance was placed on the decision in *Sheo Narain Nagar & Ors. v/s. State of Uttar Pradesh and Anr. - (2018) 13 SCC 432* in which it was held that the spirit of *Umadevi (supra)* was being ignored and conveniently overlooked by various State Governments/authorities and *Umadevi (supra)* was being used only as a tool for not regularising services of incumbents.

55. The Hon'ble Supreme Court, while dismissing the Special Leave Petition observed that the issue which was involved in *Ganesh Jambhrunkar (supra)* and consequently in the Special

Leave Petition in which the issue for consideration was whether by working for a long period of time on contractual basis, the petitioners had acquired any vested legal right to be appointed in the respective posts on regular basis. The Hon'ble Supreme Court held that whilst by appreciating the argument of the petitioners that they had given best part of their life for the college in question, but so far as the law is concerned, the Court did not find their continuous working had created any legal right in their favour to be absorbed. The Court held that in the event there is any scheme for regularisation, they could have perhaps availed of such scheme. However, there was no such scheme. The Court noted that it was apprised that some of the petitioners had applied for appointment through the current recruitment process. The Court finally held that no view different from that taken by the Division Bench of our Court in *Ganesh Jambhrunkar (supra)* could be taken and accordingly dismissed the petition.

56. The case of the petitioners in the present petitions is also not significantly different from the case of the petitioners in *Ganesh Jambhrunkar (supra)*. Therefore, the decision of the Coordinate Division Bench in *Ganesh Jambhrunkar (supra)* and the Hon'ble Supreme Court's Order dated 12.09.2023 dismissing the Special Leave Petition with a speaking order, would apply to the cases of the present petitioners as well.

57. The appointments of the petitioners in the present petitions were not comparable to the appointments spoken by the Hon'ble Supreme Court in the case of H. C. *Narayanappa (supra)*, *R. N.*

Nanjundappa (supra) or *B. N. Narayanan (supra)*. The appointments of the petitioners cannot be styled as merely irregular. In any case, the petitioners were never appointed against any sanctioned posts and by following a regular selection process consistent with the constitutional mandate of Articles 14 and 16 of the Constitution. Merely because the petitioners may have continued as contractual employees for some time, no relief of regularisation can be claimed. This is even after accepting without prejudice, the petitioners' contention based upon inequality in bargaining power or the expectation that the petitions be entertained about regularisation of their services.

58. The argument based upon responses given by the MLAs or rather to the MLAs by the Hon'ble chief Minister on the floor of the house also do not advance the petitioners' case any further. The answers only speak about regular vacancies in the post of Government Primary School Teachers. Simply because there are regular vacancies which were sought to be filled in by the regular selection process, the petitioners cannot contend that their contractual appointment was against regular vacancies or against any sanctioned posts.

59. The decision in the case of *Madhukar Sadgir (supra)* is distinguishable and the facts therein are not comparable to the facts in the present petitions. There, the petitioners were appointed in clear vacancies against sanctioned posts. There was evidence about the petitioners in the said petition officiating in the sanctioned post because at the relevant time the Government

was not getting any teaching and non-teaching staff to work in remote tribal areas, more particularly when the means of communication and transportation were scarce. The Division Bench therefore noted that *exceptional circumstances* existed for grant of the benefits of regularisation so that the exploitation of the petitioners would not continue any further. Therefore, relying upon *Sheo Narain Nagar (supra)* relief of regularisation was granted in *Madhukar Sadgir (supra)*. Such peculiar facts and exceptional circumstances do not exist in the case of the present petitioners.

60. Apart from the fact that the factual position in *Madhukar Sadgir (supra)* was quite different from the factual position in the present petitions, we must note that the decision of yet another Coordinate Bench of this Court in *Ganesh Jambhrunkar (supra)* was sought to be assailed before the Hon'ble Supreme Court by relying upon *Sheo Narain Nagar (supra)*. However, the plea based upon *Sheo Narain Nagar (supra)* was turned down by the Hon'ble Supreme Court and the decision in *Ganesh Jambhrunkar (supra)* was upheld by the Hon'ble Supreme Court.

61. Thus, it is apparent that the decision in *Madhukar Sadgir (supra)* was in the context of its peculiar facts and the exceptional circumstances noted therein. Though the Special Leave Petition against *Madhukar Sadgir (supra)* was dismissed by the Hon'ble Supreme Court, unless the petitioners establish that their appointments were against clear vacancies in sanctioned posts as

was the case in *Madhukar Sadgir (Supra)*, the relief of regularisation cannot be awarded to them.

62. *Bhaskar Patil (supra)* and *Satappa Powar (Supra)* rely on *Madhukar Sadgir (supra)*. The Special Leave Petition against *Bhaskar Patil (supra)* was dismissed on 18.04.2022 by relying upon the order dismissing Special Leave Petition against *Madhukar Sadgir (supra)*. Therefore, the reasoning in the context of *Madhukar Sadgir (supra)* will equally apply in the context of *Bhaskar Patil (supra)* and *Satappa Powar (Supra)*. The factual situation in none of these cases was comparable to the fact situation in the present cases.

63. *Sajal Deb (supra)* cannot be regarded as a binding precedent, particularly because of the several decisions of Coordinate Benches of this Court have interpreted the decision of the Constitution Bench in *Umadevi (supra)* different from the interpretation in *Sajal Deb (supra)*. Besides, *Sajal Deb (supra)* refers to *State of Haryana & Ors. v/s. Piara Singh & Ors. – (1992) 4 SCC 118* and *Narendra Kumar Tiwari v/s. State of Jharkhand – (2018) 3 SCC 238* for granting the benefit of regularisation to the petitioners in the said matter.

64. The Constitution Bench in *Umadevi (supra)* has held that the direction made in paragraph 50 of *Piara Singh (supra)* is to some extent inconsistent with the conclusion in paragraph 45 therein. Further, the Constitution Bench held that “*with great respect, it appears to us that the last of the directions clearly runs*

counter to the constitutional scheme of employment recognized in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad hoc, temporary or casual employees engaged without following the regular recruitment procedure should be made permanent”.

65. The decision in *Narendra Kumar Tiwari (supra)* was considered and distinguished by the Coordinate Bench of this Court in *Lalita V. Mertia (supra)*. Even after considering *Narendra Kumar Tiwari (supra)* the Coordinate Bench of this Court held that the benefit of regularisation cannot be granted as a one time measure, to contractual employees who had not completed ten years as of the date of the pronouncement of the decision in *Umadevi (supra)* i.e. April 10, 2006. Accordingly, based upon *Sajal Deb (supra)*, we cannot grant any relief of regularisation to the petitioners in these petitions.

66. The decisions in *State of Karnataka & Ors. v/s. M. L. Kesari & Ors. - (2010) 9 SCC 247* and *Nihal Singh & Ors. v/s. State of Punjab & Ors. - AIR 2013 SC 3547* have already been distinguished by several Division Benches of this Court including the Hon’ble Supreme Court. In *University of Delhi v/s. Delhi University Contract Employees Union and Ors. - (2021) SCC Online SC 256* the Hon’ble Supreme Court explained the import of its decision in *M. L. Kesari (supra)* and *Narendra Kumar Tiwari (supra)* by rejecting the later decisions in the backdrop of the facts of that case.

67. In *Nihal Singh (supra)* it was found that the initial appointments were not irregular. Rather, the selection process was designed under which the District Senior Superintendent of Police was required to choose suitable ex-servicemen or other able bodied persons for being appointed as Special Police Officers in terms of Section 17 of the Police Act. Accordingly, a requisition was made to the Police Department and options were called upon from ex-servicemen who were willing to be enrolled as Special Police Officer (SPOs) under Section 17 of the Police Act. The Court held that such a procedure of making recruitments was consistent with the requirement of Articles 14 and 16 of the Constitution as held in *Union of India & Ors. v/s. N. Hargopal & Ors. – (1997) 3 SCC 308*.

68. The Court also noted that at the stage of making such appointments, there was a large-scale disturbance in the State of Punjab in the 1980s. The state was not in a position to handle the prevailing law and order situation with the available police officers. Relief was granted based upon these peculiar facts and circumstances. No such facts and circumstances exist in the present petitions.

69. In *Delhi University Contract Employees Union (supra)*, the Hon'ble Supreme Court noted that as on the date when the judgment in *Umadevi (supra)* was pronounced, the contract employees had put in just three to four years of service. The Court noted that as of now, most of them must have completed more than ten years of service on contract basis. The court

observed that though the benefit of regularisation cannot be granted and the window of opportunity must be given to them to compete with the available talent through public advertisement. A separate and exclusive test meant only for the contract employees will not be an answer as that would confine the zone of consideration to contract employees themselves. Accordingly, the modality suggested by the University about giving some additional weightage to the contract employees to compete at the regular selection was accepted.

70. For all the above reasons, we are constrained to reject the reliefs claimed by the petitioners in these petitions. However, we note that, pending the disposal of these petitions, the petitioners were permitted to compete in the regular selection process without prejudice to their rights and contentions in the present petitions. Further, we had directed the respondent-State to consider the candidatures of the petitioners by granting them age relaxation. Learned AG also submitted that such age relaxation could be considered if the petitioners participate in the selection process for filling up the posts of Government Primary School Teachers on regular basis. This relief can be granted to the Petitioners and similarly situated contractual teachers engaged under Sarva or Samagra Shikshan Abhiyan.

71. Accordingly, we direct that if any of the employees, including the petitioners engaged on a contractual basis under the Sarva Shiksha Abhiyan, apply for and participate in the selection process for filling up posts of Government Primary School Teachers on a regular basis, then the candidatures of such persons,

including the petitioners must be considered by granting them age relaxation. This is, of course, provided such persons, including the petitioners, fulfil other requirements like qualifications, etc. prescribed in the recruitment rules for regular appointments to the posts of Government Primary School Teachers.

72. For all the above reasons, while we cannot grant to the Petitioners the benefit of regularisation or the other reliefs claimed in their Petitions, we direct that if any of the employees, including the Petitioners, engaged on a contractual basis under the Sarva Shiksha Abhiyan, apply for and participate in the selection process for filling up posts of Government Primary School Teachers on a regular basis, then the candidatures of such persons, including the petitioners must be considered by granting them age relaxation. This is, of course, provided such persons, including the petitioners, fulfil other requirements like qualifications, etc., prescribed in the recruitment rules for regular appointments to the posts of Government Primary School Teachers.

73. The Rule is disposed of in each of these petitions in the above terms.

74. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

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NANDAN
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Date: 2023.09.25
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