

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8048 OF 2022

WITH

INTERIM APPLICATION NO. 18690 OF 2022

Ajaykumar Ganapat Chavan And Anr.

...Petitioners

Versus

State of Maharashtra And Ors.

...Respondents

Mr. Vishwasrao S. Deokar, for Petitioners.

Ms. A.A. Purav, AGP for Respondent No.1/State.

Mr. Vishwanath Patil, for Respondent No.2 (S.M.C.).

Mr. Abhijit Patil i/b. J.G. Aradwad (Reddy) for Respondent Nos. 3 & 4.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 28 MARCH 2024

P.C.:

. Heard learned counsel for the parties.

2. The Petitioners were appointed as Assistant Garden Superintendents in the Garden Department of the Respondent-Solapur Municipal Corporation on a temporary basis. A show cause notice issued to them on 25 May 2022 regarding their conduct on duty. Thereafter, by order dated 30 June 2022 their services were dispensed with. The Municipal Corporation thereafter issued a public advertisement for filling up the post in the Garden Department on a regular basis through the selection process. Selection process was conducted. A select list was prepared. The Petitioners also participated in the selection process. However, on the basis of marks,

they were not selected and Respondent Nos. 3 & 4 were selected and subsequently appointed.

3. The case of the Petitioners is that the Petitioners had worked for long period of time though on a temporary basis, there were artificial breaks and the Petitioners should have been considered as permanent and they should have been absorbed in service and could not have been replaced by Respondent Nos. 3 & 4.

4. Firstly, the Petitioners did not seek a declaration of permanency by approaching appropriate industrial adjudicator. Thereafter, the temporary services of the Petitioners were brought to an end. A regular selection process was undertaken. The Petitioners participated in the selection process and secured less marks than the successful candidates. Petitioner No. 1 did not press the Petition and only Petitioner No. 2 remains. Considering these aspects when the Petitioners' services were temporary and now through a regular selection process Respondent Nos. 3 and 4 are appointed, the appointment of the Respondent Nos. 3 and 4 cannot be quashed and the Petitioners cannot be given appointment. No relief can be granted.

5. The writ Petition is rejected.

6. Interim application No. 18690 of 2022 does not survive in view of disposal of the writ petition and the same is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)