

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 397 OF 2024

Hanumant Navasu Gare And Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Tanaji Mhatugade for the Petitioners.

Mr. K.S. Thorat, AGP for Respondent Nos. 1 to 4.

Mr. Sachin Patil for Respondent No.5.

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CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.

DATE : 2 FEBRUARY 2024

P.C. :

. The Petitioners have sought the following reliefs:

“ (A) That this Honourable Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, directions or orders under the provision of Article 226 of the Constitution of India,1950 and be pleased to direct the Respondents to regularise the service of Petitioners with Respondent No.5 as sweepers.

(B) That this Honourable Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, directions or orders under the provision of Article 226 of the Constitution of India,1950 and be pleased to direct the Respondents not to terminate the service of Petitioners till the Respondents appoints sweepers on permanent posts in clear vacancies by following due procedure.”

2. According to the Respondent/Zilla Parishad, the Petitioners are not the employees of Zilla Parishad, but they are working on contract basis through an agency and no direction as sought for be given in the jurisdiction under Article 226 of the Constitution of India. This fact is disputed by the Petitioners. What essentially the Petitioners seek to contend is that this contractual arrangement is sham and bogus and in fact the Petitioners are the employees of Zilla Parishad.

3. As per the decision of this Court rendered in the case of *Sandip Baliram Sandbhor and Ors. V/s. Pimpri Chinchwad Municipal Corporation in Writ Petition No.109 of 2009 dated 17 February 2016*, the Industrial Adjudicator has the jurisdiction and power to give such a declaration and also can direct regularisation/permanency, if the case is made out. That being the position, it is open to the Petitioners to approach the Industrial Adjudicator.

4. Writ Petition is disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)