

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.1860 OF 2024
WITH
INTERIM APPLICATION NO.1455 OF 2024
IN
WRIT PETITION NO.1860 OF 2024**

- 1 Pimpri Chinchwad Municipal Corporation
Through its Municipal Commissioner,
PCMC Main Building, 4th Floor, Pimpri,
Pune – 411 018.
- 2 The Municipal Commissioner
Pimpri-Chinchwad Municipal Corporation
Pimpri, Pune – 411 018.
- 3 The Standing Committee,
Through its Chairman
Pimpri Chinchwad Municipal Corporation
Pimpri, Pune – 411 018.
- 4 The Zonal Officer “A” Zone,
O/at – Pradhikaran, Sector 25 Nigdi
Pune – 411 044.
- 5 The Zonal Officer “B” Zone
PCMC, O/at – Chinchwadgaon
Pune – 411 033.
- 6 The Zonal Officer “C” Zone
PCMC, O/at – Near Polygrass
Hockey Stadium, Nehrunagar,
Pimpri, Pune – 411 018.

- 7 The Zonal Officer “D” Zone,
PCMC, O/at Pimpri Colony,
Pimprigaon, Pimpri, Pune – 411 017.Petitioners

V/S

1. Ravi Arjun Jagte,
Society, Sector No.21,
Yamuna Nagar,
Nigdi, Pune – 44.
- 2 Dinkar Goroba Manjre,
Boudha Nagar, Sector No.22,
Nigdi, Pune – 44.
- 3 Sanju Vaman Vavre
Annabhau Sathe Vasahat
Room No.197, Nigdi, Pune – 44.
4. Ashok Madanlal Tamboli,
Kalbhomagar, Akurdi, Pune – 35.
5. Sambhaji Maruti Dhende,
Anantnagar, Nigdi, Pune – 44.
6. Suresh Baburao Kasale
Bhujraj Niwas, Akurdi, Pune – 35.
7. Dinkar Baleam Salve
Jadhav Vasti, Akurdi, Pune – 35.
8. Raju Vaman Vavre,
Annabhau Sathe Nagar,
Room No.197, Nigdi, Pune – 44.
9. Parshuram Shamrao Gawade,
Room No.128, Nigdi, Pune – 44.

- 10 Prakash Dagadu Kondgire,
Sitaram Gawade Chawl,
Chinchwad Station, Pune – 19
Annabhau Sathe Nagar.
- 13 Deepak Nana Padale
Kalbhor Nagar, Akurdi, Pune – 35.
- 14 Santosh Vasant Dalvi
Legal heir of deceased
Ashwini Santosh Dalvi,
Scheme No.5, Sector – 21,
Room No.18/12, Yamunanagar,
Yamunanagar, Nigdi, Pune – 44. (Deceased)
15. Aba Dada Mane
Legal heir of deceased Vishal Aba Mane,
Dattanagar, Chinchwad, Pune 19. (Deceased)
16. Kailash Babu Gajarmal,
Ajanta Nagar, Chinchwad, Pune 19.
17. Sunil Laxman Jagtap,
Boudha Vasti, Akurdi, Pune 35.
18. Jyotiram Nivrutti Rajguru,
Ambedkar Vasahat, Rahulnagar,
Nigdi, Pune 44.
19. Sambhaji Balu Daware,
Rupke Colony, Dattawadi, Pune.
20. Raju Gunda Mate,
Akurdi Station, Pune 35.

21. Shivaji Madhukar Rokde,
Milindnagar, Nigdi, Pune 44.
22. Joe Anthony Das,
Sector No. 21, Scheme No. 6,
Yamunnagar, Nigdi, Pune 44.
23. Balu Kisan Pawar,
Ambedkar Vasahat, Rahul Nagar,
Nigdi, Pune 44.
24. Hanumant Sandeepan Kale,
Ambedkar Bhavan, Akurdi, Pune 35.
25. Hanumant B. Bhalekar,
Pimple Saudagar Tal. Haveli, Dist. Pune.
26. Vilas Sitaram Gade,
Dattawadi, Akurdi, Pune 35.
27. Raju Shivaji Shelar,
Sainathnagar, Nigdi, Pune 44.
28. Manoj Suvaran Chowria,
Kalbhonnagar, Nigdi, Pune 44.
29. Ravindra Vasant Deshmukh,
Legal heir of the deceased
Smt. Sunita Ravindra Deshmukh,
Akurdi Gaon Yaikar Marg, Pune 35. (Deceased)
30. Viju Shahu Aathawale,
Sector No.22, Otta Scheme, Nigdi,
Ganganagar, Akurdi, Pune 35.
31. Balasaheb Prabhakar Kalje,
Waykar Chawl, Vitthalwadi,
Akurdi, Pune 35.

32. Satish Prabhakar Sagwekar,
Sector No. 28, Prachi Society,
Pradhikaran, Nigdi, Pune 44.
33. Subhash Vithal Jagtap,
Ambedkar Wasti, Akurdi Gaon, Pune 35.
34. Joseph Gopinath Tribhuvan,
Ambedkar Vasahat, Rahulnagar, Nidgi, Pune 44.
35. Dattatraya Vinayak Kamble,
Ambedkar Vasahat, Rahulnagar, Nigdi, Pune 44.
36. Pramod Bandopant Thombre
Legal heir of the deceased
Pradhnya Pramod Thombre,
27A, Pradhikaran, Pratapgad,
Nigdi, Pune 44. (Deceased)
37. Narayan Shivdas Chavan,
Vijaynagar, Chinchwad, Pune 33.
38. Prakash Bhiva Kamble,
Panchtaranagar, Umesh Nivas,
Akurdi, Pune 35.
39. Ramesh Dnyanoba Shelar,
Aboli Housing Society,
Krishnanagar, Chikli Road, Pune 19.
40. Jayant Nilkanth Abigo,
Pimpri, Pune 17.
41. Balu Chandar Pote.
Pimpri, Pune -17.

42. Manoj Prabhakar Tapase,
Tapkimagar, Opp. M.M. School
Kalewadi, Pune-17.
43. Vaman Tukaram Kharat,
Pimprigaon, Pune-17.
44. Balu Murlidhar Telang,
Sudarshannagar, Chinchwad Station, Pune 35.
45. Ramkisan Vedprakash Bhala.
Dalvinagar, Chinchwad, Pune 33.
46. Dilip Astak Sawant,
Gandhinagar, Pimpri, Pune 18.
47. Ganesh Babanrao Pawar,
Chinchwad Station, Telco Road, Pune 33.
48. Ramling Baburao Gaikwad,
Dalvinagar, Chinchwad, Pune 33.
49. Vasant Khandu Gaikwad,
Power House Chowk,
Chinchwad Gaon, Pune 33.
50. Kamlesh Rampratish Dhulia,
Boudh Nagar, Pimpri, Pune 17.
51. Dattatraya Dagdu Siddhaganesh,
Dalvinagar Slum, Behind Telco Company,
Chinchwad, Pune 33.
52. Gorakh Manik Gunjal,
Pimpri, Pune 17,

53. Rajesh Sanjay Pujari,
Maheshnagar, Atlas Capco,
Nehrunagar, Pune 18.
54. Rajesh Chandrakant Dhotre,
Gandhinagar, Kharalwadi, Pimpri, Pune 18.
55. Pundlik Dadarao Magar,
Bhondve Vasti, Walhekarwadi,
Chinchwad, Pune 33.
56. Rajendra R. Shinde,
Pimpri, Pune 17.
57. Prakash Laxman Jagtap,
Bhoi Aali, Chinchwad, Pune 33.
58. Bhima Bhiva Salve,
Gandhinagar, Pimpri, Pune 18.
59. Manik Shivdas Kamble,
Kailashnagar, Pimpri, Pune 17.
60. Yadav Shravan Kuchekar,
Patrayachi Chawl, Link Road,
Chinchwad, Pune 33.
61. Raju Baban Jagtap,
MIDC Colony, Pimpri, Pune 17.
62. Uttam Shripati Rakhpasare,
Anandnagar, Chinchwad Station, Pune 19.
63. Yallapa Allyappa Chalwadi,
Annasaheb Magar Stadium,
Chinchwad Station, Pune 19.

64. Ramesh Dnyanoba Gawli,
Legal Heirs of the Deceased
Dinesh Ramesh Gawali, Pimprigaon. Pune 17.
65. Suresh Bhagwan Chavan,
Jaihind Nagar, Thergaon, Pune 33.
66. Gorakh Bhaguji Maske,
Bhimnagar, Pimpri Gaon, Pune 17.
67. Gautam Tulshiram Jagtap,
Pimple Saudagar, Tal. Haveli, Dist. Pune.
68. Stepan John Gaikwad,
Navi Sangvi, Pune.
69. Shilanand Shamrao Suryawanshi,
Navi Sangvi, Pune 27.
70. Raju Vitthal Mahadik,
Shitolenagar, Sangvi, Pune 27.
71. Vitthal Kondiba Sagat,
Shitolenagar, Sangvi, Pune 27,
72. Kailash Masaji Chandanshive
Legal Heirs of the Deceased
Lata Kailas Chandanshive,
Near Dhondiraj Mangal Karyalaya,
Tapkirnagar, Kalewadi, Pune. (Deceased)
73. Kiran Prakash Alhat,
Bhimnagar, Pimpri, Pune 17.
74. Sambhaji Shankarrao Gorkhe,
Padwalnagar, Thergaon, Pune 33.

75. Rajesh Pandurang Jagtap,
Pimple Saudagar, Tal. Haveli, Dist. Pune.
76. Vinod Vitthal Kamble,
Bhimnagar, Pimprigaon, Pune 17.
77. Digambar Shankar Khopkar
Legal Heirs of the Deceased
Laxmi Digambar Khopkar,
Shiv Parvati Niwas, Near Jaibhavaninagar,
Pimple Gurav, Pune 27. (Deceased)
78. Satish Ashruba Lakhe,
Tharegaon, Pune 33.
79. Sanjay Jaysing Bhosale,
Dnyaneshwar Nagar, Thergaon, Pune 33.
80. Ashok Punjaram Jagtap.
Nadhenagar, Kalewadi, Pune 17.
81. Dipaknand Babau Tambe,
Jaymala Nagar, Sangvi, Pune - 27.
82. Manohar Bansi Makar,
Makar Chawl, Sangvi, Pune - 27.
83. Shamrao Sawkar Kamble,
Bhimnagar, Pimprigaon, Pune - 17.
84. Daulat Aatmaram Pawar,
Uday Mens Wear, Nadhenagar,
Kalewadi, Pune - 17.
85. Narayan Keru Jadhav,
Jyotiba Nagar, Ashwini Colony,
Kalewadi, Pune - 17.

86. Rajendara Atmaram Bhosale,
Aaba Kate Chawl, Dapodi, Pune 411 012.
87. Mangesh Haibati Kamble,
Chandramani Sangh, Sangvi, Pune - 27.
88. Santosh Vitthal Nikalje,
Bhimnagar, Pimprigaon, Pune 17.
89. Nitin Bhagwan Kamble,
Bhimnagar, Pimprigaon, Pune 17.
90. Rais Ahmed,
Nadhenagar, Pimpri, Pune 17.
91. Nitin Kachru Gaikwad,
Aba Kate Chawl, Dapodi, Pune 12.
92. Prashant Puran Kumbhar,
Trimurti Sadan, Shitolenagar,
Sangvi, Pune 27.
93. Rajendra A. Survase
Legal Heirs of the Deceased
Gaurav Rajendra Survase,
Bhimnagar, Pimprigaon, Pune. (Deceased)
94. Laxman Vidurath Gaikwad,
Ganesh Nagar, Pimpri Waghere, Pune 17.
95. Mahendra Vitthal Adsul,
Vairat Chawl, Dapodi, Pune - 12.
96. Sahebrao Keshav Raut,
New Sangvi, Pune - 27.

97. Kailash Shankar Gorkhe,
Padvalnagar, Thergaon, Pune -33.
98. Shahaji Santosh Borse,
Govind Mukne Chawl,
Survey No. 56, Navi Sangvi, Pune 27.
99. Shankar Husen Lokhande
Legal Heirs of the Deceased
Durgaji Shankar Lokhande,
Pimplegurav, Vaidu Vasti,
Tal. Haveli, Dist. Pune. (Deceased)
100. Rahul Madhukar Jadhav,
Ravet, Tal. Haveli, Dist. Pune.
101. Dattatray Nivrutti Kamble,
Bhoite Chawl, S. No. 16, Bopodi, Pune 3.
102. Raju Pandurang Sable,
Anandvan Aashram, Dapodi, Pune 12.
103. Sanjay Shamrao Waghmare,
Bhoite Chawl, S. No. 16, Bopodi, Pune 411003.
104. Rajesh Sultansingh Walmiki.
Patrayache Shed, Link Road, Pimpri, Pune 18.
105. Kashinath Namdev Kamble
Legal Heirs of the Deceased
Nilesh Kashinath Kamble, 10/111 H.I.G.,
Sant Tukaram Nagar, Pimpri, Pune- 18. (Deceased)
106. Kishor Vishwanath Kharat,
Ruston Colony, Chinchwad, Pune - 33.

107. Ravindra Sambhaji Yadav,
Dalvi Nagar, Chinchwad, Pune -33.
108. Vijay Saurappa Talare,
Anand Nagar, Chinchwad Station, Pune -19.
109. Sharannappa Yaamaappa Mhetre,
Gandhi Nagar, In Front of Mahindra Company,
Pimpri, Pune 18.
110. Chandrakant Bhimsen Javale,
Kailashnagar, Pimpri, Pune 17.
111. Ashok Midmal Kalla,
Dalvinagar, Chinchwad, Pune 19.
112. Machchindra Fakir Sonawane,
Dalvinagar, Chinchwad, Pune -33.
113. Vhikamsingh Kishorilal Valmiki.
Pune.
114. Deepak Keshav Dhotre,
Pune.
115. Rajendra Dhanraj Fadtare,
Thergaon, Pune - 33.
116. Suryakant Damodar Chabukswar,
Behind Padamaji Paper Mill,
Kejudevi Nagar, Suresh Barne Chawl,
Thergaon, Pune-33.
117. Wajir Mehboob Saudagar,
Dange Chowk, Thergaon, Pune-33.
118. Shivaji Laxman Nimhan,
Jaibhavani Nagar, Gurav Pimple, Pune.

119. Mukesh R. Bandwal,
Ajantha Nagar, Chinchwad, Pune -19.
120. Vikas Pralhad Waghmare,
Shastri Nagar, In Front of Buddha Mandir,
Pimpri, Pune - 17.
121. Prabhakar Pralhad Waghmare,
Shastri Nagar, Opp. Boudh Mandir,
Pimpri, Pune-17.
122. Anil Parshuram Jadhav,
Near Vitthalnagar Slum,
Nehrunagar, Pimpri, Pune 18.
123. Dilip Tribak Bangar,
Landewadi, Bhosari, Pune-39.
124. Chandrakant Vilas Vaidande,
Gavlimatha, Telco Road, Bhosari, Pune -39.
125. Nitin Anant Jadhav,
Landewadi, Bhosari, Pune -49.
126. Kailash Manjaba Khude,
Babasaheb Landge Chawl,
Gavadevasti, Bhosari, Pune -39.
127. Raju Sahebrao Dolas,
Didhi Road, Adarsh Nagar,
Bhosari, Pune -39.
128. Bhimrao Rajaram Pawar,
Adarsh Nagar, Bhima Dolas Chawi,
Bhosari, Pune-39.

129. Ramesh Laxman Gosavi,
Alandi Road, Shriram Colony,
Bhosari, Pune 39.
130. Raju Jagannath Jagtap,
Chinchwadgaon, Bhimnagar, Pune - 33.
131. Vijay Shamrao Borhade,
Pacharnewada, Bhosarigaon, Pune - 39.
132. Naresh Mohan Saigal,
Behind Marathi School, Nehru Nagar,
Pimpri, Pune 18.
133. Subhash Narayan Gaikwad,
Fanase Chawl, Near Vitthal Mandir,
Pimpri, Pune -18.
134. Loarence Bhanudas Gaikwad,
Near Shinde Pith bhatti, Nehru Nagar,
Pimpri, Pune 18.
135. Balaram Shankar Mergu,
Dattoba Landge Chawl, Kasarwadi, Pune - 37.
136. Ramdas Dattu Landge,
Gawalimatha, M.1.D.C., Bhosari, Pune - 26.
137. Santosh Janba Karkude,
Opp. Rashtraprem Vayam School,
Dighi Road, Pune - 39.
138. Nandu Gangaram Gavhane,
Senchuri Eanka Colony, Bhosari, Pune -39.

139. Trimbak Bhagwat Toke
Legal Heirs of the Deceased
Vaibhav Trimbak Bhagwat,
Dighi Road, Opp. Tulai Mandir,
Bhosari, Pune-411039. (Deceased)
140. Bhaskar Bhaurao Dasal,
Post Road, West Pandav Nagar,
Near Dr. Deokar, Bhosari, Pune 39.
141. Sunil Diwaki Borge,
Dighi Road, Bhosari, Pune -39.
142. Madhukar Damodar Shinde,
Gavhane Vasi, P.C.M.T. Chowk,
Bhosari. Pune.
143. Sanjay Bhikaji Jadhav,
Sant Tukaram Nagar, Pimpri, Pune - 18.
144. Sunil Sudhakar Kudchikar,
Sant Tukaram Nagar, Pimpri, Pune - 18.
145. Somnath Sawalaram Jadhav,
Jai Maharashtra Chowk, Alandi Road,
Bhosari (East), Pune.
146. Sunil Raghunath Bhosale,
Gulve Vasti, Bhosari, Pune -39.
147. Sanjay Tulshiram Landge,
Landewadi, Bhosari, Pune - 18.
148. Laxman Tukaram Nalawade,
Vijay Prabha Hsg. Soc., Nehru Nagar,
Pimpri, Pune -18.

149. Raju Baban Dhasal,
Khandobamal, Kisan Shinde Chawl,
Bhosari, Pune-39.
150. Kundan Vitthal Nikam,
Popat Tapkir Chawl,
Kasarwadi, Pune - 34.
151. Shambhaji Sopan Shinde,
Landewadi, Vitthal Nagar, Bhosari, Pune-39.
152. Balu Dynoba Dolas,
P.M.T. Chowk, Ashoknagar, Bhosari, Pune-39.
153. Vishwanath Manjaba Khude,
Dhawade Vasti, Bhosari, Pune - 39.
154. Satish Baburao Gavhane
Legal Heirs of the deceased
Sunita Satish Gavhane,
P.M.T. Chawk, Gavhane Chawl,
Bhosari, Pune 39. (Deceased)
155. Hanumanta Madapapa Kale,
Sanjay Nagar, Phugewadi, Pune - 2.
156. Madhu Gurapapa Shinde
Legal Heirs of the deceased
Surekha Madhu Shinde,
Vijay Prabha Hsg. Soc.,
Nehru Nagar, Pimpri, Pune - 18 (Deceased)
157. Datta Deoman Kachi,
Sanjay Nagar, Phugewadi, Pune - 12.
158. Ashok Ramaswami Takale,
Nehru Nagar Slum, Pimpri, Pune 18.

159. Ravindrasingh Japansingh Bhat,
Bhatnagar, Punarwasan Prkalpa,
Buld. No. 5, Room No. 21, Pimpri, Pune.
160. Sunil Namdev Kamble,
10/111 H.I.G., Sant Tukaram Nagar, Pimpri, Pune.
161. Siddhodan Popat Chavan,
At Post - Dehugaon, Tal - Haveli, Dist – Pune.
162. Vilas Goruba Sonawane,
Bhagat Vasti, Hanuman Nagar, Bhosari, Pune -39.
163. Vijay Sadu Daundkar,
Vijay Prabha Hsg. Soc., Nehru Nagar,
Pimpri, Pune 18.
164. Dashrath Bhima Gunjal,
Gunjal Chawl, Nehru Nagar, Pimpri, Pune 18.
165. Balu Kondiram Salve,
1041, Navni, Nanapeth, Pune - 12.
166. Kailash Bapu Kamble,
Landewasti, Kasanyadi, Pune.
167. Sukhadev Jayant Phuge,
Alandi Road, Lalbahadur Shastri Chowk,
Behind Dhankawade Chawl, Bhosari Pune-39.
168. Bapu Sahebrao Ahivale,
Bhagwat Vasti, Bhosari Pune-39.
169. Dynaneshwar Narayan Mate,
Phugewadi, Phanchagewada, Pune - 12.

170. Sanjay Namdev Khilare,
Jaywant Barane Chawl,
Sant Dnyaneshwar Nagar,
Thergaon, Pune -33.
171. Subhash Yalappa Cabukshwar,
Kalbhor Nagar, Near Gupta Hotel,
Chinchwad, Pune - 19.
172. Babasaheb Bharat Londhe,
In Front of L-pro Company,
Vijay Nagar, Chinchwad, Pune - 33.
173. Vijay Sherba Kamble
Legal Heirs of the Deceased
Sagar Vijay Kamble, Vijaynagar,
Chinchwadgaon, Pune - 33. (Deceased)
174. Satish Nagnath Chandanshive,
In Front of L-pro Company,
Vijay Nagar, Chinchwad, Pune - 33.
175. Sunil Baban Kunjir,
Budhanagar, River Road, Buld. No. 16,
Room No. 1, Pimpri, Pune - 17.
176. Prakash Maruti Ghubade,
Laltopi Nagar, Morewadi, Pimpri, Pune 18.
177. Suryakant Babanrao Mohite,
Behind Bhairavnath Mandir,
Sathe Chowk, Chinchwad, Pune - 19.
178. Sopan Dadu Londhe,
Tanajirao Londhe Chawl,
Chinchwad, Pune - 33.

179. Suresh Kisan Pallari,
Anand Nagar, Chinchwad Station, Pune-19.
180. Pathan Lature Bothe,
Indiranagar, Chinchwad Station, Pune -19.
181. Vijay Dhondu Tambe,
Budhanagar, River Road,
Buld. No. 16, Room No. 33, Pimpri Pune.
182. Raju Ramdas Waghmare,
Udyog Nagar, Chinchwad, Pune - 33.
183. Sanjay Baban Gadkari,
Near Bhairavnath Madir,
Chinchwadgaon, Pune -33.
184. Malhari Balu Kamble,
Anandnagar, Chinchwad Station, Pune - 19.
185. Vishnu Rambhau Adagale,
Londhe Chawl, Balaji Nagar,
Chinchwad, Pune-33.
186. Sanjay Gangaram Jadhav,
Vijaynagar, Opp. L-pro Company,
Chinchwadgaon, Pune 33.
187. Shantaram Shetiba Pawar,
Indira Nagar, Chinchwad Station, Pune - 19.
188. Balasaheb Shreepatrao Gadkari,
Gawade Vasti, Bhoirali, Chinchwadgaon, Pune 33.

189. Narayan Suryaji Jadhav
Legal Heirs of the Deceased
Suresh Narayan Jadhav,
Opp. Jay Bharat Tarun Mandal,
Shashri Nagar, Pimpri, Pune – 17. (Deceased)
190. Ashok Jagdev Jadhav,
Morwadi, Pimpri, Pune 18.
191. Narayan Rambhau Ujagare
Legal Heirs of the Deceased
Akash Narayan Jadhav, Bhat Nagar,
Build. No.-13, Pimpri, Pune 17. (Deceased)
192. Anant Sahdeo Gotal,
Dhawade Vasti, Shiv Ganesh Nagar,
Bhosari, Pune 39.
193. Sanjay Eknath Pansare,
Dhawade Vasti, Baba Landge Chawl,
Bhosari, Pune -39.
194. Kakuram Balbhim Kengar,
Kengar Niwas, Nehru Nagar,
Pimpri, Pune - 18.
195. Sameer Namdev Dolas
Legal Heirs of the Deceased
Smt. Seema Sameer Dolas,
Namganga Niwas, Rashtraprem Nagar,
Near New Priyadarshani School,
Dighi Road, Bhosari, Pune - 39. (Deceased)
196. Rajiv Pujaji Wadagale,
Alandi Road, At. Post. Moshi, Tal-Haveli, Dist. Pune.

197. Pandarinath Kashinath Shinde
Legal Heirs Of the Deceased
Rahul Pandharinath Shinde,
Boudh Nagar, Building No. 14,
Room No. 52, Pimpri, Pune – 17. (Deceased)
198. Sarjerao Honaji Turukmare,
Budhanagar, Pimpri, Pune - 17.
199. Jitendra Kashinath Dakhale,
Tapkarnagar, Kalewadi, Pune 17.
200. Sanjay Narayan Patil,
Shitole Nagar, Sangvi, Pune - 27.
201. Subhash Tukaram Goikar,
Kalewadi, Pawana Nagar, Pimpri, Pune - 17.
202. Chandrakant Yalappa Kamble,
Priyadarshni Nagar, Sangvi, Pune - 27.
203. Balu Nagu Danke,
Pimpri River Road, Budhanagar,
Build. No. 16, Room No.-20,
Pimpri, Pune - 17.
204. Anand Ramprasad Khokar,
Senitari Chawl, Pimpri, Pune - 17.
205. Sanjay Nivruti Gholap
Legal Heirs of the Deceased
Meena Sanjay Gholap, Budhanagar,
Building No.14, Room No.52,
Pimpri-Camp, Pune - 17. (Deceased)
206. Devidas Dhanaji Bhosale,
Ramabai Nagar, Pimpri, Pune - 17.

207. Kishor Dattatray Khengare,
Near Pagechi Talim, Chinchwadgaon,
Pune 33.
 208. Datta Laxman Adagale,
Shastrinagar, Pimpri, Pune 411017
 209. Navnath Bhanudas Kharat,
Budhanagar, Build. No. 15, Room No. 24,
Pimpri, Pune-17.
 210. Sitaram Dattu Parkhe,
Morwadi, Pimpri, Pune - 18.
 211. Vishwas Laxman Tapkir
Legal Heirs of the Deceased
Shubham Vishwas Tapkir,
Pimprigaon Shindeali,
Kalapurewada, Pune - 411 017. (Deceased)
 212. Ramesh Mahadev Rankhambe,
Shastri Nagar, Pimprigaon, Pune - 17
 213. Malakappa Nagppa Koli,
Mahatma Phule Nagar,
Bhosari, M.ID.C., Pune-26.
 214. Shakil Usman Shaikh,
Pimple Nilakh, Aundh Camp,
Pune-27.
 215. Ramesh Piraji Bhise,
Pimple Soudagar, Tal. - Haveli, Dist.- Pune.
 216. Santosh Manohar Pawar,
Malali, Pimprigaon, Pune – 17.
- ...Respondents

**WITH
WRIT PETITION NO.4931 OF 2003**

- 1 Pimpri Chinchwad Municipal Corporation
(through its Municipal Commissioner,
Pimpri, Pune – 411 018.
- 2 The Municipal Commissioner
Pimpri-Chinchwad Municipal Corporation
Pimpri, Pune – 411 018.
- 3 The Standing Committee,
(through its Chairman)
Pimpri Chinchwad Municipal Corporation
Pimpri, Pune – 411 018.
- 4 The Zonal Officer “A” Zone,
P.C.M.C. Office at Pradhikaran,
Sector 25, Nigdi, Pune – 411 011.
- 5 The Zonal Officer “B” Zone
PCMC, Office at – Chinchwadgaon
Pune – 411 033.
- 6 The Zonal Officer “C” Zone
PCMC, Office at – Near Polygrass
Hockey Stadium, Nehrunagar,
Pimpri, Pune – 411 018.
- 7 The Zonal Officer “D” Zone,
PCMC, Office at Pimpri Colony,
Pimprigaon, Pimpri, Pune – 411 017.Petitioners

V/S

1. Mahapalika and Parivahan Kamgar Aghadi,
Pimpri Chinchwad, (through its General
Secretary – Shri Sunbhash Sareen,
Office at 32/7, Sector 28, Ganganagar,
Nigdi, Pune 411 044.

- 2 Ravi Arjun Jagate,
43/16, Trupti Housing Society,
Sector No.21, Scheme No.10,
Yamuna Nagar, Nigdi, Pune – 411 044.
- 3 Dinkar Goroba Manjare,
Boudha Nagar, Sector No.22,
Nigdi, Pune – 411 044.
- 4 Sanju Waman Waware
Annabhau Sathe Vasahat
Room No.197, Nigdi, Pune – 44.
5. Ashok Madanlal Tamboli,
Kalbhor, Pune – 35.
6. Sambhaji Maruti Dhende,
Anantnagar, Nigdi, Pune – 44.
7. Shivaji Zitinga Gaikwad,
- 8 Suresh Baburao Kasale
Bhuiraj Niwas, Akurdi, Pune – 35.
9. Dinkar Baliram Salve
Jadhav Vasti, Akurdi, Pune – 35.
10. Raju Waman Waware,
Annabhau Sathe Nagar,
Room No.197, Nigdi, Pune – 44.
- 11 Chandrakant Ramdas Jadhav
Kalewadi, Nadenagar,
Near Rupsangama Bunglow, Pune.
12. Parshuram Shamrao Gawade,
Annabhau Sathenagar,
Room No.128, Nigdi, Pune – 44.

- 13 Balu Keru Jagtap
Mohan Nagar, Chinchwad, Pune 411 019.
- 14 Prakash Dagadu Kodagire,
Sitaram Gawade Chawl,
Chinchwad Station, Pune – 19
- 15 Deepak Nana Padale
Kalbhor Nagar, Akurdi, Pune – 35.
- 16 Santosh Vasant Dalvi
Scheme No.5, Sector – 21,
Room No.18/12, Yamunanagar,
Yamunanagar, Nigdi, Pune – 44.
17. Aba Dada Mane
Dattanagar, Chinchwad, Pune 19.
18. Kailash Babu Gajarmal,
Ajanta Nagar, Chinchwad, Pune 19.
19. Sunil Laxman Jagtap,
Boudha Vasti, Akurdi, Pune 35.
20. Jyotiram Nivrutti Rajguru,
Ambedkar Vasahat, Rahulnagar,
Nigdi, Pune 44.
21. Sambhaji Balu Daware,
Rupke Colony, Dattawadi, Pune.
22. Raju Goonda Mate,
Akurdi Railway Station, Pune 35.
23. Dashrath Tulshiram Shelar
Dattanagar, Chinchwad, Pune – 19.

- 24 Shivaji Madhukar Rokade,
Milindnagar, Nigdi, Pune 44.
25. Joe Anthony Das,
Sector No. 21, Scheme No. 6,
House No.2/9, Yamunnagar,
Nigdi, Pune 44.
26. Balu Kisan Pawar,
Ambedkar Vasahat, Rahul Nagar,
Nigdi, Pune 44.
27. Hanumant Sandipan Kale,
Awedak Bhavan, Akurdi, Pune 35.
28. Hanumant B. Bhalekar,
Pimple Saudagar Tal. Haveli, Dist. Pune.
29. Tushar Mahadeo Gawade,
Gawade Chawl, Chinchwad Station, Pune.
- 30 Vilas Sitaram Gade,
Dattawadi, Akurdi, Pune 35.
31. Raju Shivaji Shelar,
Sainathnagar, Nigdi, Pune 44.
32. Baban Ashok Sarode
Vidhyanager, Chinchwad, Pune -19.
- 33 Manoj Suvaran Chawaria,
Kalbhornagar, Nigdi, Pune 44.
34. Ramchandra Vasant Deshmukh,
Akurdi village, Waykar Marg, Pune.

35. Viju Shahu Athavale,
Sector No.22, Ota, Nigdi,
Ganganagar, Akurdi, Pune 35.
36. Balasaheb Prabhakar Kalje,
Waikar Chawl, Vitthalwadi,
Akurdi, Pune 35.
37. Satish Prabhakar Sagvekar,
Sector No. 28, Prachi Society,
Pradhikaran, Nigdi, Pune 44.
38. Subhash Vithal Jagtap,
Ambedkar Wasti, Akurdi village, Pune 35.
39. Joseph Gopinath Tribhuvan,
Ambedkar Vasahat, Rahulnagar, Nigdi, Pune 44.
40. Dattatraya Vinayak Kamble,
Ambedkar Vasahat, Rahulnagar, Nigdi, Pune 44.
41. Deepak Jaysing More,
Mohnagar, Chinchwad, Pune 19.
42. Pramod Bandopant Thombre
27A, Pradhikaran, Parataparh,
Nigdi, Pune 44.
43. Anil Sidram Kamble,
Vidyanagar, Chinchwad, Pune 19.
44. Narayan Shivdas Chavan,
Vijaynagar, Chinchwad, Pune 33.
45. Prakash Bhiwa Kamble,
Panchtaranagar, Umesh Nivas,
Akurdi, Pune 35.

46. Laxman Dnyanoba Shelar,
Aboli Housing Society,
Krishnanagar, Chikhali Road, Pune 19.
47. Jayant Nilkanth Abigo,
Pimpri, Pune 17.
48. Balu Chandar Pote.
Pimpri, Pune -17.
49. Rajesh Chandrakant Bhosale
Sector No.27-A, Ota Scheme,
Akurdi, Pune – 44.
50. Manoj Dinkar Tapase,
51. Mahendra Ramchandra Bansode,
52. Waman Tukaram Kharat,
53. Shankar Bhagwan Arde
Ota Scheme, Nigdi, Pune.
54. Vijay Dattu Jadhav
Mahatma Phule Nagar,
55. Dilip Dadu Jadhav
Mahatma Phule Nagar
56. Balu Murlidhar Telang,
Sudarshannagar, Chinchwad Station, Pune 35.
57. Nilkanth Pandurang Otari
residing at Wakad, Taluka Tulshi,
District Pune.
58. Rama Kisan Vedprakash Bhala.
Dalvinagar, Chinchwad, Pune 33.

59. Dilip A. Sawant,
Gandhinagar, Pimpri, Pune 18.
60. Ganesh Babanrao Pawar,
Chinchwad Station, Telco Road, Pune 33.
61. Ramling Baburao Gaikwad,
Dalvinagar, Chinchwad, Pune 33.
62. Vasant Khandu Gaikwad,
Power House Chowk,
Chinchwad Gaon, Pune 33.
63. Kamlesh Rampratish Dhulia,
Boudh Nagar, Pimpri, Pune 17.
64. Dattatraya Dagdu Siddhaganesh,
Dalvinagar, Zopadpatti, Behind Telco Company,
Chinchwad, Pune 33.
65. Gorakh Manik Gunjal,
Pimpri, Pune 17,
66. Rajesh Sanjay Poojari,
Maheshnagar, Atlas Caffé,
Nehrunagar, Pune 18.
67. Rajesh Chandrakant Dhotre,
Gandhinagar, Kharalwadi, Pimpri, Pune 18.
68. Pundlik Dadarao Magar,
Bhondve Vasti, Valhekarwadi,
Chinchwad, Pune 33.
69. Rajendra R. Shinde,
Pimpri, Pune 17.

70. Prakash Laxman Jagtap,
Bhoi Aali, Chinchwad, Pune 33.
71. Bhima Bhiva Salve,
Gandhinagar, Pimpri, Pune 18.
72. Manik Shivdas Kamble,
Kailashnagar, Pimpri, Pune 17.
73. Yadav Shravan Kuchekar,
Patrayachi Chawl, Link Road,
Chinchwad, Pune 33.
74. Raju Baban Jagtap,
MIDC Colony, Pimpri, Pune 17.
75. Uttam Shripati Rakhpasare,
Anandnagar, Chinchwad Station, Pune 19.
76. Yallapa Allyappa Chawadi,
Annasaheb Magar Stadium,
Chinchwad Station, Pune 19.
77. Ramesh Dnyanoba Gawli,
78. Suresh Bhagwan Chavan,
Jayhind Nagar, Dhergaon, Pune 33.
79. Gorakh Bhaguji Maske,
Bhimnagar, Pimprigaon, Pune 17.
80. Gautam Tulshiram Jagtap,
Pimple Saudagar, Tal. Haveli, Dist. Pune.
81. Steven John Gaikwad,
Navi Sangvi, Pune.

82. Sheelanand Shamrao Suryawanshi,
Navi Sangvi, Pune 27.
83. Raju Vitthal Mahadik,
Shitolenagar, Sangvi, Pune 27.
84. Vitthal Kondiba Sagat,
Shitolenagar, Sangvi, Pune 27,
85. Kailash Masaji Chandanshive
Near Dhondiraj Mangal Karyalaya,
Tapkirnagar, Kalewadi, Pune.
86. Kiran Prakash Alhat,
Bhimnagar, Pimpri, Pune 17.
87. Sambhaji Shankarrao Gorakhe,
Padwalnagar, Dhergaon, Pune 33.
88. Rajesh Pandurang Jagtap,
Pimple Saudagar, Tal. Haveli, Dist. Pune.
89. Vinod Vitthal Kamble,
Bhimnagar, Pimprigaon, Pune 17.
90. Kiran Chandrakant Kamble,
Priyadarshaninagar, Sanghvi, Pune 27.
91. Digambar Shankar Khopkar
Shiv Parvati Niwas, Near Jaibhavaninagar,
Pimplegurav, Pune 27.
92. SantoshBalbhim Sharkhan,
At post Rahatani, Pawananagar,
Kalewadi, Pune 17.

93. Satish Abuba Lakhe,
94. Sanjay Jaysing Bhosale,
Dnyaneshwar Nagar, Dhergaon, Pune 33.
95. Ashok Punjaram Jagtap.
Nadhenagar, Kalewadi, Pune 17.
96. Deepaknand Babau Tambe,
Jaymala Nagar, Sangvi, Pune - 27.
97. Manohar Bansi Makar,
Makarchawl, Sanghvi, Pune - 27.
98. Shamrao Sawakar Kamble,
Bhimnagar, Pimprigaum, Pune - 17.
99. Daulat Aatmaram Pawar,
Aday Mens Ware, Nadhenagar,
Kalewadi, Pune - 17.
100. Narayan Keru Jadhav,
Jyotiba Nagar, Ashwini Colony,
Kalewadi, Pune - 17.
101. Rajendara Atmaram Bhosale,
Abakate Chawl, Dapodi, Pune 411 012.
102. Mangesh Haibati Kamble,
Chandramani Sangh, Sangvi, Pune - 27.
103. Santosh Vitthal Nikalje,
Bhimnagar, Pimprigaon, Pune 17.
104. Nitin Bhagwan Kamble,
Bhimnagar, Pimprigaon, Pune 17.

105. Rais Ahmed,
Nadhenagar, Pimpri, Pune 17.
106. Rajbeer Revatisingh Sorati
Adarshnagar, Kemse Girni,
Kalewadi, Pune 17.
107. Nitin Kachru Gaikwad,
Abakate Chawl, Dapodi, Pune 12.
108. Prashant Puran Kumbhar,
Trimurti Sadan, Shitolenagar,
Sangvi, Pune 27.
109. Kamlesh Bansraj Prajapati,
Bajirao Barne Chawl, Dhergaon, Pune 33.
110. Rajendra Survase
Bhimnagar, Pimpri village Pune.
111. Laxman Vidurath Gaikwad,
Ganesh Nagar, Pimpri Vaghere, Pune 17.
112. Mahendra Vitthal Adsul,
Vairat Chawl, Dapodi, Pune - 12.
113. Sahebrao Keshav Raut,
New Sangvi, Pune - 27.
114. Kailash Shankar Gorakhe,
Padvalnagar, Thergaon, Pune -33.
115. Bhausahab Shivaji Adulkar
Kalewadi, Jyhotiba Nagar, Pune – 17.
116. Shahaji Santosh Borase,

117. Shankar Hussein Lokhande
Pimplegurav, Vaiduvasti,
Tal. Haveli, Dist. Pune.
118. Rahul Madhukar Jadhav,
Rawet, Tal. Haveli, Dist. Pune.
119. Dattatray Nivrutti Kamble,
Bhoite Chawl, S. No. 16, Bopodi, Pune 3.
120. Raju Pandurang Sable,
Anandvan Aashram, Dapodi, Pune 12.
121. Sanjay Shamrao Waghmare,
Bhoite Chawl, S. No. 16, Bopodi, Pune 411003.
122. Rajesh Sultansingh Walmiki.
Pamyache Shed, Link Road, Pimpri, Pune 18.
123. Kashinath Namdev Kamble
10/111 H.I.G.,
Saint Tukaram Nagar, Pimpri, Pune- 18.
124. Kishor Vishwanath Kharat,
Ruston Colony, Chinchwad, Pune - 33.
125. Ravindra Sambhaji Yadav,
Dalvinagar, Chinchwad, Pune -33.
126. Vijay Saurappa Talare,
Anandnagar, Chinchwad Station, Pune -19.
127. Sharannappa Yellappa Mhetre,
Gandhi Nagar, Behind Mahindra Company,
Pimpri, Pune 18.
128. Chandrakant Bhimsen Jawale,
Kailashnagar, Pimpri, Pune 17.

129. Ashok Midmal Kalla,
Dalvinagar, Chinchwad, Pune 19.
130. Machchindra Fakir Sonawane,
Dalvinagar, Chinchwad, Pune -33.
131. Vhikamsingh Kishorilal Walmiki.
Dalvinagar, Chinchwad, Pune - 33.
132. Deepak Keshav Dhotre,
Pune.
133. Navnath Chander Chavan,
Yashoda Niwas, Ganeshnagar,
Dhergaon, Pune – 33.
134. Rajendra Dhanraj Phadtare,
Dhergaon, Pune - 33.
135. Suryakant Damodar Chabukswar,
Behind Padamaji Paper Mill,
Kejudevi Nagar, Suresh Barne Chawl,
Dhergaon, Pune-33.
136. Vajir Mehboob Saudagar,
Dange Chowk, Dhergaon, Pune-33.
137. Shivaji Laxman Nimhan,
Jaybhavani Nagar, Gurav Pimple, Pune.
138. Ankush Zorak Bhosale
139. Shankar Sahebrao Gaikwad
140. Mukesh R. Bandwal,
Ajantha Nagar, Chinchwad, Pune -19.

141. Vikas Pralhad Waghmare,
Shastri Nagar, In Front of Buddha Mandir,
Pimpri, Pune - 17.
142. Prabhakar Pralhad Waghmare,
Shastri Nagar, Opp. Boudh Mandir,
Pimpri, Pune-17.
143. Anil Parshuram Jadhav,
Near Vitthalnagar Zopadpatti,
Nehrunagar, Pimpri, Pune 18.
144. Dilip Tribak Bangar,
Landewadi, Bhosari, Pune-39.
145. Chandrakant Vilas Waidande,
Gawlimatha, Telco Road, Bhosari, Pune -39.
146. Nitin Anant Jadhav,
Landewadi, Bhosari, Pune -49.
147. Kailash Manjaba Khude,
Babasaheb Landge Chawl,
Gawadevasti, Bhosari, Pune -39.
148. Raju Sahebrao Dolas,
Didhi Road, Adarsh Nagar,
Bhosari, Pune -39.
149. Bhimrao Rajaram Pawar,
Adarsh Nagar, Bhima Dolas Chawl,
Bhosari, Pune-39.
150. Ramesh Laxman Gosavi,
Alandi Road, Shriram Colony,
Bhosari, Pune 39.

151. Raju Jagannath Jagtap,
Chinchwadgaon, Bhimnagar, Pune - 33.
152. Vijay Shamrao Borhade,
Pacharanwadi, Bhosarigaon, Pune - 39.
153. Naresh Mohan Saigal,
Behind Marathi School, Nehru Nagar,
Pimpri, Pune 18.
154. Subhash Narayan Gaikwad,
Phanse Chawl, Near Vitthal Mandir,
Pimpri, Pune -18.
155. Ramdas Ranganath Salve
PCMC Colony, Bldg. No.7, R.No.16,
Nigadi, Pune.
156. Lowrence Bhanudas Gaikwad,
Near Shinde Vit-bhatti, Nehru Nagar,
Pimpri, Pune 18.
157. Balaram Shankar Mergu,
Dattoba Landge Chawl, Kasarwadi, Pune - 37.
158. Sanjay Dattatraya Rakshe,
Dattoba Landge Chawl, Kasarwadi, Pune – 37.
159. Ramdas Dattu Landge,
Gawali Matha, M.1.D.C., Bhosari, Pune - 26.
160. Santosh Janba Karkude,
Infront of Rashtraprem Vyayam Shala,
Nooru Mohalla, Dighi Road, Pune - 39.
161. Nandu Gangaram Gawhane,
Century Enka Colony, Bhosari, Pune -39.

162. Trimbak Bhagwat Toke
Dighi Road, Near Tulai Mandir,
Bhosari, Pune-411039. (Deceased)
163. Bhaskar Bhaurao Thasal
Post Road, West Pandav Nagar,
Near Dr. Deokar, Bhosari, Pune 39.
164. Sunil Diwaki Borge,
Dighi Road, Bhosari, Pune -39.
165. Madhukar Damodar Shinde,
Gawhane Vasi, P.C.M.C. Chowk,
Bhosari. Pune.
166. Sanjay Bhikaji Jadhav,
Saint Tukaram Nagar, Pimpri, Pune - 18.
167. Sunil Sudhakar Kudchikar,
Saint Tukaram Nagar, Pimpri, Pune - 18.
168. Somnath Sawalaram Jadhav,
Jai Maharashtra Chowk, Alandi Road,
Bhosari (East), Pune.
169. Sunil Raghunath Bhosale,
Gule Vasti, Bhosari, Pune -39.
170. Sanjay Tulshiram Landge,
Landewadi, Bhosari, Pune - 18.
171. Ramesh Dnyanu Kamble,
172. Laxman Tukaram Nalawade,
Vijay Prabha Hsg. Soc., Nehru Nagar,
Pimpri, Pune -18.

173. Raju Baban Dhasal,
Khandobamal, Kisan Shinde Chawl,
Bhosari, Pune-39.
174. Kundan Vitthal Nikam,
Popat Tapkir Chawl,
Kasarwadi, Pune - 34.
175. Shambhaji Sopan Shinde,
Landewadi, Vitthal Nagar,
Bhosari, Pune-39.
176. Balu Dynanoba Dolas,
P.M.T. Chowk, Ashoknagar,
Bhosari, Pune-39.
177. Santosh Jagannath More
Baba Landge chawl, Dhaadevasti,
Bosari 39.
- 178 Vishwanath Manjaba Dhude,
Dhavde wasti, Bhosari, Pune - 39.
179. Satosh Baburao Gawhane
P.M.T. Chawk, Gaehane Chawl,
Bhosari, Pune 39.
180. Suresh Dagdu Pawar
Landewadi, Vitthalnagar, Bhosari, Pune – 39.
- 181 Hanumanta Marappa Kale,
Sanjay Nagar, Phugewadi, Pune – 1 2.
182. Madhu Gurapapa Shinde
Vijayprabha Housing Soc.,
Nehru Nagar, Pimpri, Pune - 18
183. Datta Devman Kachi,
Sanjaynagar, Phugewadi, Pune - 12.

184. Ashok Ramaswami Takale,
Nehrunagar Zopadpatti, Pimpri, Pune 18.
185. Dinkar Sandipan Bhadge,
Akurdi Datawadi Devi Niwas
186. Ravindrasingh Japansingh Bhat,
Bhatnagar, Poonarvasan Imarat No. 5,
Room No. 21, Pimpri, Pune.
187. Sunil Namdev Kamble,
10/111 H.I.G., Sant Tukaram Nagar, Pimpri, Pune.
188. Shuddhodhan Popat Chavan,
At Post - Dehugaon, Tal - Haveli, Dist – Pune.
189. Vilas Goruba Sonawane,
Bhagatwasti, Hanuman Nagar, Bhosari, Pune -39.
190. Vijay Sadhu Daundankar,
Vijayprabha Housing Society, Nehru Nagar,
Pimpri, Pune 18.
191. Dashrath Bhima Gunjal,
Gunjal Chawl, Nehru Nagar, Pimpri, Pune 18.
192. Balu Kondiba Salve,
1041, Navni, Nanapeth, Pune - 12.
193. Kailash Bapu Kamble,
Landge Wasti, Kasarwadi, Pune.
194. Sukhadev Jaywant Phuge,
Alandi Road, Lalabhadur Shastri Chowk,
Behind Dhankawade Chawl, Bhosari Pune-39.

195. Bapu Sahebrao Adiwale,
Bhagatwasti, Bhosari, Pune-39.
196. Dynaneshwar Narayan Mate,
Phugewadi, Phanchagewada, Pune - 12.
197. Sanjay Namdev Khillare,
Jaywant Barne Chawl,
Saint Dnyaneshwar Nagar,
Dhergaon, Pune -33.
198. Subhash Yallappa Chbukswar,
Kalbhor Nagar, Near Gupta Hotel,
Chinchwad, Pune - 19.
199. Babasaheb Bharat Londhe,
Behind Elpro Company,
Vijaynagar, Chinchwad, Pune - 33.
200. Satish Nagnatha Chandanshive
201. Vijay Shekha Kamble
202. Sunil Baban Kunjeer,
Baudhnagar, Pimpri River Road, Bldg. No. 16,
Room No. 1, Pimpri, Pune - 17.
203. Prakash Maruti Ghubade,
Laltopinagar, Morwadi, Pimpri, Pune 18.
204. Suryakant Babanrao Mohite,
Behind Bhairavnath Mandir,
Sathe Chowk, Chinchwad, Pune - 19.
205. Sopan Dadu Londhe,
Tanajiraonagar Londhe Chawl,
Chinchwad, Pune - 33.

- 206 Suresh Kisan Pallari,
Anand Nagar, Chinchwad Station, Pune-19.
- 207 Pathan Lature Bothe,
Indiranagar, Chinchwad Station, Pune -19.
208. Vijay Dhondu Tambe,
Baudhnagar, River Road,
Bldg. No. 16, Room No. 33, Pimpri Pune.
- 209 Raju Ramdas Waghmare,
Udyog Nagar, Chinchwad, Pune - 33.
- 210 Sanjay Baban Gadkari,
Near Bhairavnath Mandir,
Chinchwadgaon, Pune -33.
- 211 Malhari Balu Kamble,
Anandnagar, Chinchwad Station, Pune - 19.
- 212 Vishnu Rambhau Adagale,
Londhe Chawl, Balajinagar,
Chinchwad, Pune-33.
- 213 Sanjay Gangaram Jadhav,
Infront of Vijaynagar Elpro Company,
Chinchwad village, Pune 33.
214. Shantaram Shetiba Pawar,
Indiranagar, Chinchwad Station, Pune - 19.
- 215 Balasaheb Shripadrao Gadkari,
Gawade Bhoirali, Chinchwad village, Pune 33.
- 216 Narayan Suryaji Jadhav
Behind Diluxe Talkies,
Shashri Nagar,
Behind Jai Hind School, Pimpri Camp
Pimpri, Pune – 17.

217. Ashok Jagdev Jadhav,
Morwadi, Pimpri, Pune 18.
- 218 Narayan Rambhau Ujagare
Bhat Nagar,
Bldg. No.-13, Pimpri, Pune 17.
219. Anant Sahdeo Gotal,
Dhawtevasti, Shivganesh Nagar,
Mamasahab Lazndge Chawl,
Bhosari, Pune 39.
- 220 Sanjay Eknath Pansare,
Dhawadevasti, Baba Landge Chawl,
Bhosari, Pune -39.
- 221 Kakuram Balbhim Kengar,
Kengar Niwas, Nehrunagar,
Pimpri, Pune - 18.
222. Sameer Namdev Dolas
Saint Tukaram Nazgar,
Bhosari, Pune - 39.
- 223 Ramdas Pundlik Bawale,
Near Pathare Landge Talim
- 224 Raju Poojaji Wadagale,
Alandi Road, At. Post. Moshi,
Tal-Haveli, Dist. Pune.
- 225 Santosh Damodar Landge
Near Pathare Landge Talim,
Bhosari, Pune – 39.
- 226 Pandarinath Kashinath Shinde
Baudh Nagar, Pimpri, Pune – 17.

227. Sarjerao Honaji Tuskmare,
Baudhnagar, Pimpri, Pune - 17.
- 228 Jitendra Kashinath Dakhale,
Kalewadi, Tapkir Nagar,
Zopadpatti, Pune 17.
229. Adwin Lajresh John
Adarshnagar, Kalewadi, Pune – 17.
- 230 Sanjay Narayan Patil,
Shitole Nagar, Sanghvi, Pune - 27.
231. Subhash Tukaram Goykar,
Kalewadi Pawananagar, Pimpri, Pune - 17.
- 232, Chandrakant Yallappa Kamble,
Priyadarshani Nagar, Sanghvi, Pune – 27.
- 233 Basavraj Choudappa Gaikwad
Ajantha Nagar, Chinchwad, Pune – 19.
- 234 Balu Nagu Danke,
Pimpri River Road, Baudhanagar,
Build. No. 16, Room No.-20,
Pimpri, Pune - 17.
235. Madhukar Vidhyanath Owhai
Adarshnagar, Pimpri – 17.
- 236 Anand Ramprasad Polar,
Century Chawl, Pimpri, Pune - 17.
237. Sanjay Nivruti Gholap
Gurudatta Nagar, Nanekar Chawl,
Pimpri, Pune - 18.

238. Devidas Dhanaji Bhosale,
Ramabainagar, Pimpri, Pune - 17.
239. Kishor Dattatray Khengare,
Near Pagechi Talim, Chinchwad village,
Pune 33.
240. Datta Laxman Adagale,
Shastrinagar, Pimpri, Pune 411017
241. Mariappa Hanuimanta Dhole
Anandnagar, Chinchwad Station
Pune 19.
- 242 Navnath Bhanudas Kharat,
Baudhanagar, Building No. 15, Room No. 24,
Pimpri, Pune-17.
243. Subhash Shekhlal Bhat,
Bhatnagar, Building No.7,
Room No.26, Pimpri – 17.
- 244 Sitaram Dattu Parkhe,
Morwadi, Pimpri, Pune - 18.
245. Vishwas Laxman Tapkir
Pimpri village, Shinde Ali,
Kalapure Wada, Pune - 411 017.
- 246 Ramesh Mahadeo Rankhambe,
Shastri Nagar, Pimprigaon, Pune - 17
247. Malakappa Nagppa Koli,
Mahatma Phule Nagar,
Bhosari, M.ID.C., Pune-26.
248. Shakeel Usman Shaikh,
Pimpale Nilakh, Aundh Camp,
Pune-27.

249. Mukund Manjaba londhare
Pimpale Nilakh, Sutarali, Pune – 27.

250 Ramesh Piraji Bhise,
Pimple Saudagar, Tal. - Haveli, Dist.- Pune 27.

251. Santosh Manohar Pawar,
Mal Ali, Pimpri Village, Pune – 17.

...Respondents

Mr. Ashutosh Kumbhakoni, Senior Advocate with Mr. Kedar B. Dighe,
Mr. Manoj Badgujar and Ms. Sneha Bhange *for the Petitioners in WP 1860 of 2024.*

Mr. G.H. Keluskar, *for Petitioner* in WP 4931 of 2003.

Mr. Nitin Kulkarni with Mr. Avinash Belge *for Respondents in both Petitions.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 08 AUGUST 2024.
PRONOUNCED ON: 20 AUGUST 2024.

JUDGMENT

1 Pimpri-Chinchwad Municipal Corporation-Petitioner is aggrieved by orders passed by Industrial Court, Pune, in entertaining Complaint (ULP) No.139 of 1999 filed on behalf of persons, whom it brands as ‘contractors’, by rejecting the preliminary objection of maintainability vide order dated 22 November 2002. It is also aggrieved by the final judgment and order dated 30 January 2023 allowing the Complaint and declaring that the Complainants are employees of the Petitioner-Pimpri-Chinchwad Municipal Corporation (PCMC). The Industrial Court has further directed the Petitioner-PCMC to absorb Complainants in service from the dates of their initial joining alongwith

arrears of wages on par with its permanent employees doing similar work. Accordingly, Writ Petition No.4931 of 2003 is filed challenging the order on preliminary issue dated 22 November 2002 whereas Writ Petition No.1860 of 2024 is filed challenging the final judgment and order dated 30 January 2023.

2 Narration of few basic facts leading to filing the Petitions would be necessary. Petitioner is a Municipal Corporation established under the provisions of Maharashtra Municipal Corporation Act, 1949 (**MMC Act**). Petitioner-PCMC initiated *Swachata Sankalp Mohim* (cleanliness drive), which included inter alia public awareness programme to educate citizens about importance of cleanliness, door to door collection of solid waste etc. It appears that a Resolution was adopted by the Standing Committee of Petitioner-PCMC on 2 September 1997 on the basis of proposal of Municipal Commissioner dated 26 August 1997 to engage either one or two contractors in each Ward without inviting tenders for collection of garbage by use of push-cart and accumulating the same in Municipal Waste Box. It was decided to pay consolidated amount of Rs.1,800/- per month per contractor for performing such work. The Resolution contemplated either continuation of earlier contractors or to engage willing persons in the Ward to be engaged as a new contractor. It appears that on the basis of Resolution adopted by the Standing Committee on 2 September 1997,, contracts were issued to various persons. One such contract is placed on record which was issued on 3 August 1998, by which Shri. Laxman Vidurath Gaikwad was granted contract of collection of garbage by use of push-cart for the period from 4 September 1998 to 31 August 1998 on terms and conditions specified therein.

3 Mahapalika and Parivahan Kamgar Aghadi, Pimpri-Chinchwad filed Complaint (ULP) No.139 of 1999 before Industrial Court, Pune, on behalf of about 301 such persons, who were allotted work of collection of garbage through push-carts by the Petitioner-PCMC. The Union claimed that the said persons were actually employees of the Petitioner-PCMC. and the entire arrangement was nothing but a camouflage designed to avoid the responsibility arising under labour legislations. The arrangement of issuing contracts was thus branded as sham and a declaration was sought in the Complaint that 301 workers included in Annexure-P2 the Complaint be declared as direct workers of Petitioner-PCMC. Further relief for making all the workers permanent from the dates of joining duties alongwith wages on par with permanent workers was also sought.

4 Petitioner-PCMC appeared in the Complaint and filed its Written Statement. Additionally, Petitioner-PCMC also filed application for decision of issue of jurisdiction as preliminary issue and sought dismissal of the Complaint on the ground that the Industrial Court did not have jurisdiction to entertain Complaint filed under Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**MRTU & PULP Act**) seeking declaration that the contract is sham and bogus. The Petitioner-PCMC contended that in the light of dispute about existence of employer-employee relationship, Complaint filed under MRTU and PULP Act fell outside jurisdiction of the Industrial Court.

5 Industrial Court however proceeded to reject the application filed by Petitioner-PCMC raising preliminary issue of jurisdiction and held that the

Complaint filed by the Union was maintainable by its order dated 22 November 2002. Petitioner-PCMC has filed Writ Petition No.4931 of 2003 challenging the order on preliminary issue dated 22 November 2002. This Court granted *ad-interim* relief in terms of prayer clause (c) of the Petition and stayed further proceedings of Complaint (ULP) No.139 of 1999 pending before Industrial Court by its order dated 28 July 2003. Writ Petition No.4931 of 2003 came to be admitted by this Court by order dated 30 April 2004 continuing the interim relief of stay on proceedings in Complaint (ULP) No.139 of 1999. It appears that the Union filed Letters Patent Appeal (Stamp) No.21629 of 2004 before Division Bench, which came to be dismissed by order dated 3 September 2004. However, the learned Single Judge was requested to decide the Petition expeditiously.

6 When Writ Petition No.4931 of 2003 came up for hearing before this Court on 10 July 2014, a detailed order came to be passed observing that a Reference was pending before Larger Bench of the Apex Court to resolve difference of opinion in various decisions relating to maintainability of Complaint under MRTU & PULP Act where existence of employer-employee relationship was disputed. Therefore, by order dated 10 July 2014, this Court directed that it would be appropriate to await decision of the Reference pending before the Apex Court. This is how the Petition remained pending. Order dated 10 July 2014 was challenged by Union alongwith the workers, it was representing, before the Supreme Court by filing Special Leave Petition (C) No.12804 of 2015. It appears that leave was granted in the said SLP by order dated 12 February 2019 and the same was registered as Civil Appeal

No.1673 of 2019. So far as the Reference made to the Larger Bench of the Apex Court was concerned, which was noticed by this Court in order dated 10 July 2014, the Supreme Court passed order dated 17 July 2019 in ***Raymond Ltd. Anr. vs. Tukaram Tanaji Mandhare & another***¹ that no specific question was framed for answer by the Larger Bench. The Apex Court considered Full Bench decision of this Court in ***Tukaram Tanaji Mandhare & Anr. vs. Raymond Woollen Mills Limited & Ors.***² and held that the position of law expounded in paragraph 19 of the Full Bench Judgment lays down correct position of law.

7 It appears that without making any application to this Court for vacation of interim order which had stayed the proceedings of Complaint (ULP) No.139 of 1999, an application was moved before the Industrial Court on 12 January 2021 on behalf of Complainants stating that the reference in ***Tukaram Tanaji Mandhare*** (supra) was decided by the Apex Court and that therefore there was no stay to the further proceedings in the Complaint (ULP) No.139 of 1999. It appears that advocate for Petitioner-PCMC agreed with the said position and on account of such joint representation made to the Industrial Court, it proceeded to decide Complaint (ULP) No.139 of 1999 on merits. The Complaint has been allowed by the Industrial Court vide judgment and order dated 30 January 2023 declaring that Complainants are employees of Petitioner-PCMC and that they are entitled for absorption in service of Petitioner-PCMC from the dates of joining of service. The Complainants are also held to be entitled for benefit of arrears of wages on par

1 (Civil Appeal No.5077 of 2006)

2 2005 (4) Mh.L.J 1045

with regular employees of the Petitioner-PCMC from the dates of their joining service. In respect of Complainants who passed away during pendency of the Complaint, direction is given for payment of arrears of wages to their legal heirs from the dates of joining till the dates of their death. The final judgment and order dated 30 January 2023 is subject matter of challenge in Writ Petition No.4931 of 2003. To complete the narration of fact, Civil Appeal No.1673 of 2019 has been withdrawn by the Complainants on 21 August 2023.

8 Mr. Kumbhakoni, the learned senior advocate appearing for Petitioner-PCMC would submit that the Industrial Court has proceeded to decide Complaint (ULP) No.139 of 1999 in violation of interim order dated 30 April 2004 passed by this Court while admitting Writ Petition No.4931 of 2003. That though said interim order continuous to operate till date and has not been modified or vacated by this Court, Complainants persuaded the Industrial Court to proceed ahead with the decision of the Complaint on a misrepresentation that the stay granted by this Court had been vacated. That thus the Complaint is decided by passing final judgment and order dated 30 January 2023 in violation of interim order granted by this Court.

9 Mr. Kumbhakoni would further submit that the Complaint filed by Respondents before the Industrial Court under provisions of section 28 of the MRTU & PULP Act was not maintainable in view of specific declarations sought by them about existence of employer-employee relationship as well as abolition of contracts executed with them. That seeking a declaration that

Respondents are direct workers of Petitioner-PCMC contains an implicit admission about existence of dispute about employer-employee relationship. He would take me through the averments in the Complaint to demonstrate that the entire Complaint was full of pleadings in support of declaration that the contract executed by Petitioner-PCMC is sham and camouflaged. He would also take me through one of the letters granting contract to demonstrate that the said letter cannot be construed to mean an appointment order. That the said letter did not amount to employment of the person concerned into the services of the Petitioner-PCMC. He would submit that contracts were awarded to various persons for door-to-door collection of garbage through push-carts with a view to implement the cleanliness drive undertaken by the Petitioner-PCMC on experimental basis. That Petitioner-PCMC was not under any statutory obligations to collect municipal solid waste from the doors of the citizens and it was thus not a part of statutory duty of the Petitioner-PCMC to employ any staff for door-to-door collection of garbage at the relevant time. That the Municipal Solid Waste Rules were implemented much later in the year 2016 and that therefore resolutions adopted Standing Committee of the Petitioner-PCMC, who commenced the scheme of door-to-door collection of Municipal solid waste on experimental basis by issuing contracts cannot be confused with effecting appointments in the services of the Petitioner-PCMC. He would submit that appointment on establishment of a Municipal Corporation cannot be treated on par with appointment with a private employer. That there is a statutory framework for effecting appointments on the establishment of the Municipal Corporation and no appointment on its establishment can be effected without following a

procedure prescribed for making such appointments. That therefore contracts effected with private contractors for door-to-door collection of municipal solid waste can never be treated as appointments made on the establishment of the Petitioner-PCMC.

10 Mr. Kumbhakoni would further submit that being fully aware of the position that the concerned persons were mere contractors, they were required to raise a contention that the contracts awarded by the Petitioner-PCMC in their favour were sham and bogus. That the concerned persons were fully aware that without seeking a declaration of contract being sham and bogus, it was impossible to establish direct employer-employee relationship with the Petitioner-PCMC and this is the reason why those contractors approached the Industrial Court to seek a declaration of contract being sham and bogus. In the light of the dispute raised by the Complainants themselves about existence of employer employee relationship, the Complaint was clearly outside the jurisdiction of Industrial Court. He would submit that the position of law about lack of jurisdiction of Industrial Court to entertain Complaint under MRTU & PULP Act in the light of existence of dispute about employer-employee relationship is well settled by the judgments of the Apex Court in *Cipla Limited vs. Maharashtra General Kamgar Union & Ors.*³ and *Sarva Shramik Sangh vs. Indian Smelting and Refining Company Limited and others*⁴. That this position is also reiterated by Division Bench judgment of this Court in *Asia Foundation and Construction Limited Nagpur vs. Engineering Kamgar Sanghatana, Nagpur and another*⁵.

3 2001 (3) SCC 101

4 2003 (10) SCC 455

5 2016 (2) MhLJ 406.

11 Mr. Kumbhakoni would further submit that the Industrial Court has erred in assuming jurisdiction and in rejecting the preliminary objection about maintainability of the Complaint by holding that there is no intermediate contractor between Complainants and Petitioner-PCMC or that the Complainants are directly working with the Petitioner-PCMC. He would submit that what is important is the factum of award of contracts to the concerned Complainants and presence/absence of an intermediate contractor would make no difference so long as there is a dispute about existence of employer employee relationship. That this is not a case where existence of employer-employee relationship is indisputable as erroneously held by the Industrial Court in order dated 22 November 2002. The true ratio of the judgments of the Apex Court in **Cipla Limited** (supra) and **Sarva Shramik Sangh** (supra) is that in every case where there is dispute about employer employee relationship, jurisdiction of Industrial Court under MRTU & PULP Act is barred. Mr. Kumbhakoni would therefore submit that since the Complaint itself was not maintainable, the final judgment and order dated 30 January 2023 passed by the Industrial Court is without jurisdiction and hence a nullity.

12 Without prejudice to the contentions about maintainability of the Complaint and jurisdiction of the Industrial Court, Mr. Kumbhakoni would further submit that none of the six tests laid down by the Apex Court in ***Balwant Rai Saluja and another vs. Air India Limited and others***⁶, are fulfilled in the present case. That the said six tests are required to be determined having

6 2014 (9) SCC 407

regard to the position that engagements of the Complainants are made by Zonal Officers which cannot be treated as appointments made by the Petitioner-PCMC or by its Commissioner. That the Zonal Officers are not empowered under the provisions of MMC Act to make any engagements or appointments of Municipal servants that therefore the first test of '*who appoints?*' fails in the present case. That the second test of '*who pays the salary/remuneration*' also fails as no salary is paid to the Complainants and what was paid at that time was only contract price for door-to-door collection of garbage at fixed rate. That the third test of '*who has authority to dismiss*' again fails in the present case as there is nothing on record to indicate that the Petitioner-PCMC took any decision about discontinuation of any individual contractor. That it is borne out in evidence and in fact an admission in the Complaint itself that Complainants worked at the mercy of the Zonal Officers thereby indicating that the Petitioner-PCMC did not play any role in respect of discontinuation of contracts of any individual contractor. That fourth test of '*who can take disciplinary action*' also fails in the present case as there was no question of taking any disciplinary action against contractors who were never treated as Municipal servants in any manner. That the fifth test of '*whether there is continuity of service*' again does not get fulfilled in the present case as this is not a case where same employee is continued through different contractors and that the contract of each individual was distinct. That the sixth test of '*extent of control and supervision*' also does not get fulfilled in the present case as there is no evidence on record to prove that the Petitioner-PCMC ever supervised or controlled work of individual contract. Mr. Kumbhakoni would therefore submit that even if it is assumed that the

Industrial Court had jurisdiction to go into the issue of existence of employer-employee relationship, none of the six tests prescribed in the Apex Court judgment of ***Balwant Rai Saluja*** (supra) get fulfilled in the present case.

13 Mr. Kumbhakoni would further submit that Complainants otherwise did not have any right to seek absorption in the Municipal service, mere completion of 240 days of service cannot be a ground for grant of relief of absorption in service. That the Industrial Court has erred in relying on letters and certificates issued during pendency of proceedings for the purpose of inferring that Complainants are direct workers of the Petitioner-PCMC. That letters for admission of children of concerned Complainants in schools does not create employer-employee relationship. That the Industrial Court has undertaken exercise of appreciation of evidence to decide employer-employee relationship, which is frowned upon by Division Bench of this Court in ***Asia Foundation and Construction Limited Nagpur*** (supra). That the Industrial Court had erroneously relied upon the alleged proposals sent by Petitioner-PCMC to the State Government, which are ultimately not accepted by the State Government. In fact, sending of such proposals clearly show that Complainants are not employees of Petitioner-PCMC. The proposals merely proposed their treatment as employees, which have been rejected by the State Government. So far as reliance by the Industrial Court on provisions of sections 7 and 12 of the Contract Labour (Regulation and Abolition) Act, 1970 is concerned, Mr. Kumbhakoni would submit that even if it is treated that the contracts executed with the Complainants suffered from any infirmity, the same would not convert contracts into employment. Mr. Kumbhakoni

would pray for setting aside both orders on preliminary issues as well as the final judgment and order dated 30 January 2023.

14 The Petitions are opposed by Mr. Kulkarni, the learned counsel appearing for the Respondents/original Complainants. 15 So far as the Industrial Court proceeding to decide the Complaint despite non-vacation of interim order by this Court is concerned, Mr. Kulkarni would submit both the Complainants as well as Petitioner-PCMC were of unanimous opinion that on account of disposal of reference by the Apex Court in *Tukaram Tanaji Mandhare* (supra) the interim order had come to an end and that therefore the Industrial Court cannot really be faulted for proceeding to decide the Complaint finally.

15. He would rely upon definition of the term “workman” under section 2(s) of the Industrial Disputes Act, 1947 (**ID Act**) in support of his contention that every person engaged to perform the work of manual or unskilled or skilled work for hire or reward is to be treated as workman. That it is demonstrably proved before the Industrial Court that Petitioner-PCMC performs such work for Municipal Corporation for hire or reward. That definition of the term “wages” under section 2(rr) of the ID Act again covers remuneration paid in terms of employment. That therefore the remuneration paid to the Complainants directly by the Petitioner-PCMC fits into the definition of the term ‘wages’ under the ID Act. That nature of work performed by Respondents does not differ or depend upon the nomenclature

used by Petitioner-PCMC for the arrangement and ultimately it is proved that Respondents work for Petitioner-PCMC. He would take me through definition of the term “contractor” under the Contract Labour (Regulation and Abolition) Act to demonstrate that Respondents do not fit into the definition of the said term. That no license is obtained by Respondents who are acting as contractors of Petitioner-PCMC and it has also been an admitted position that engagement of the Respondents is not through any contractor. That therefore, relationship between Petitioner-PCMC and Respondents is not even a matter of debate. Mr. Kulkarni would further submit that initial engagements of all Complainants are clearly referable to the Standing Committee Resolution. That thus decision to engage them is taken by Petitioner-PCMC and not by Zonal Officers as sought to be contended by Petitioner-PCMC. That Ward Officers were only delegated the power of issuing letters and it cannot be said that they exercised any independent authority to make engagements. He would take me through various findings recorded by the Industrial Court on preliminary issue to demonstrate that absence of any intermediate contractor has rightly been taken into consideration that the Industrial Court to infer direct relationship between the Complainants and Petitioner-PCMC. That several documents indicating direct engagements of Complainants as well as treating them as direct employees by Petitioner-PCMC have been considered by the Industrial Court. That it has been conclusively proved that direct payments are made to Complainants based on recording of their attendance in muster. That supervision by Municipal Officers is also proved. That Complainants perform same job as of regular sweepers. That there are 1521 sanctioned posts of sweepers out of which 468 were lying vacant at the time of

decision of the Complaint. He would therefore submit that the order passed by the Industrial Court directing absorption of Complainants in service does not warrant any interference. He would pray for dismissal of both the Petitions.

16 Rival contentions of parties now fall for Court's determination.

17 Before proceeding to decide the merits of the dispute, it would be first necessary to decide the issue of propriety on the part of the industrial Court in deciding the Complaint even though the stay order granted by this Court was never vacated. There are no two opinions on the fact that the stay order granted by this Court was not vacated and continued to operate and, in that sense, the Industrial Court could not have decided the Complaint during operation of stay order of this Court. to this extent, there is impropriety on the part of the Industrial Court. It however appears that the both the sides are responsible for this misadventure on Court's part, as they jointly agreed before the Court that the stay order no longer continued after decision of reference by the larger Bench of the Apex Court. Therefore though Mr. Kumbhakoni is right in contending that the Industrial Court could not have decided the Complaint during pendency of Writ Petition No. 4931 of 2003, Petitioner-PCMC has to share the blame in agreeing with the counsel for complainants that the stay order of this court no longer operated. Also of relevance is the fact that the Complaint was pending since the year 1999 and somehow the same has been finally decided, *albeit* with impropriety. Now both the petitions challenging the order on preliminary issue as well as the final judgment and order are taken up for hearing and are being decided by this common

judgment. Therefore, instead of attempting to correct the impropriety on the part of the Industrial Court by remanding the Complaint for fresh decision by first deciding the issue of maintainability, it would be appropriate to proceed ahead by recording this Court's displeasure on the conduct of both the parties in misrepresenting the Industrial Court.

18. The main objection raised by Petitioner-PCMC is about maintainability of the Complaint and jurisdiction of the Industrial Court to entertain the same. Before proceeding to examine the exact nature of grievance raised in the Complaint, it would be apposite to first deal with the position of law about jurisdiction of Industrial Court under provisions of MRTU & PULP Act. MRTU & PULP Act essentially consists of two parts viz. (i) recognition of trade unions for facilitating collective bargaining on behalf of workmen and (ii) prevention of unfair labour practices on the part of employers, trade unions and employees. Section 27 of the MRTU & PULP Act provides that no employer or union and no employee shall engage in any unfair labour practice. Thus, the Act essentially governs relationship between employer and employees. Section 26 of the Act provides that 'unfair labour practices' means any of the practices listed in Schedule II, III and IV. Schedule II lists unfair labour practices on the part of employees, Scheduled III lists unfair labour practices on the part of trade unions and Schedule IV lists general unfair labour practices on the part of employers. It is on account of governance of relationship between employers and employees by the MRTU & PULP Act that existence of employer-employee relationship becomes *sine qua non* for invocation of jurisdiction under section 28 of the MRTU & PULP Act for

filing a Complaint relating to any unfair labour practice. If there is no employer-employee relationship, the allegation of commission of unfair labour practice under Schedule II and Schedule IV cannot be raised because such unfair labour practices necessarily need to be alleged by an employee against his/her employer. This is a reason why the law now is fairly well settled that absence of employer-employee relationship ousts jurisdiction of Industrial Court to entertain any Complaint alleging unfair labour practices under MRTU & PULP Act. There are catena of judgments on this issue and a quick reference in this regard can be made to the three judgments. In *Cipla Limited* (supra). It is held by the Apex Court in paragraph 8 and 11 as under:

8. But one thing is clear - if the employees are working under a contract covered by the Contract Labour (Regulation and Abolition) Act then it is clear that the Labour Court or the industrial adjudicating authorities cannot have any jurisdiction to deal with the matter as it falls within the province of an appropriate Government to abolish the same. If the case put forth by the workmen is that they have been directly employed by the appellant Company but the contract itself is a camouflage and, therefore, needs to be adjudicated is a matter which can be gone into by appropriate Industrial Tribunal or Labour Court. Such question cannot be examined by the Labour Court or the Industrial Court constituted under the Act. The object of the enactment is, amongst other aspects, enforcing provisions relating to unfair labour practices. **If that is so, unless it is undisputed or indisputable that there is employer-employee relationship between the parties, the question of unfair practice cannot be inquired into at all.** The respondent Union came to the Labour Court with a complaint that the workmen are engaged by the appellant through the contractor and though that is ostensible relationship the true relationship is one of master and servant between the appellant and the workmen in question. By this process, workmen repudiate their relationship with the contractor under whom they are employed but claim relationship of an employee under the appellant. That exercise of repudiation of the contract with one and establishment of a legal relationship with another can be done only in a regular Industrial Tribunal/Court under the ID Act.”

11. Next decision relied upon by Shri Singhvi is *Central Bank of India c Ltd. v. P.S. Rajagopalans*, AIR 1964 SC 743: (1964) 3 SCR 140 to contend that even in cases arising under Section 33-C(2) of the Industrial Disputes Act the scope, though very limited, certain incidental questions can be gone into like a claim for special allowance for operating adding machine which may not be based on the Sastry Award made under the provisions of Chapter V-A. The learned counsel pointed out that in the event we were to hold that it is

only in clear cases or undisputed cases the Labour Court or the Industrial Tribunal under the Act can examine the complaints made thereunder, the whole provision would be rendered otiose and in each of those cases provisions of the Bombay Industrial Relations Act, 1946 or the Industrial Disputes Act will have to be invoked. We are afraid that this argument cannot be sustained for the fact that even in respect of claims arising under Section 33-C(2) appropriate dispute can be raised in terms of Section 10 of the Industrial Disputes Act and that has not been the position in the present case. Nor can we say that even in cases where employer-employee relationship is undisputed or indisputably referring to the history of relationship between the parties, dispute can be settled and not in a case of the present nature where it is clear that the workmen are working under a contract. But it is only a veil and that will have to be lifted to establish the relationship between the parties. That exercise, we are afraid, can also be done by the Industrial Tribunal under the Bombay Industrial Relations Act, 1946 or under the Industrial Disputes Act. Therefore, we are afraid that the contention advanced very ably by Shri Singhvi on behalf of the respondents cannot be accepted. Therefore, we hold that the High Court went far beyond the scope of the provisions of the Act and did not correctly understand the decisions of this Court in *Gujarat Electricity Board, Thermal Power Station v. Hind Mazdoor Sabha*, (1995) 5 SCC 27 : 1995 SCC (L&S) 1166 and *General Labour Union (Red Flag) v. Ahmedabad Mfg. & Calico Printing Co. Ltd.*, (1995) 5 SCC 175 : 1995 SCC (L&S) 372. The correct interpretation of these decisions will lead to the result, which we have stated in the course of this order.”

(emphasis added)

19 In *Sarva Shramik Sangh* (supra) it was urged before the Apex Court that the law expounded in previous judgments including *Cipla Ltd.* needed a fresh look. The Apex Court has noted the submission on behalf of Appellants in paragraphs 2 and 4 of the judgment and has thereafter held in paragraphs 15 and 24 as under:

2 The appellants contend that the view which was first expressed by this Court in *General Labour Union (Red Flag) vs. Ahmedabad Mfg. and Calico Printing Co. Ltd.*, 1995 Supp (1) SCC 175 : 1995 SCC (L&S) 372 subsequently echoed in many cases including *Vividh Kamgar Sabha vs. Kalyani Steels Ltd.* (2001) 2 SCC 381 : 2001 SCC (L&S) 436 and finally in *Cipla Ltd. vs. Maharashtra General Kamgar Union*, (2001) 3 SCC 101 : 2001 SCC (L&S) 520 is legally unsound and needs a fresh look.

4. According to the appellants a fresh look is necessary in the matter as various relevant provisions were not kept in view when the above decisions were rendered.

15. Reference has also been made to Sections 27, 28, 29(d) and 32 of the Maharashtra Act. While Section 27 deals with prohibition on engaging in unfair labour practices, Section 28 empowers filing of a complaint. Any union or an employee or an employer or any

investigating agency has the locus to file a complaint. Section 29(d) categorises parties on whom order of the court is binding. Great emphasis was laid on Section 32 of the Maharashtra Act by the appellant to contend that matters connected with the dispute can be gone into under the provision. The expression "all matters arising out of" clearly emphasizes that it has connections, and not that it is the basic issue. There is a gulf of difference between a basic issue and something connected with or arising out of the application. In *R. v. Basudeva* AIR 1950 FC 67 : 51 CrLJ 1011 it was observed that the connection contemplated must be real and proximate, not far-fetched or problematical. By no logic can it be a substitute of the other. "In connection with any assessment" [Canada: Income War Tax Act R.S.C. 1927 (C. 97) S. 66] has been interpreted as "having to do with" in *Nanaino Community Hotel, Re.* (1945) 3 DLR 225. The basic question which was also raised in *Cipla* case (2001) 3 SCC 101 : 2001 SCC (L&S) 520 relates to the existence of the relationship, and of any dispute connected with that. For getting protection under the Maharashtra Act, it has first to be established that the complainant is an employee of a person under whom he claims to be an employee and against whom he files a complaint. In other words, the determinative question is, can anybody who is not an "employee" of or under a person against whom a grievance is sought to be made file a complaint under the Act and the answer is inevitably "No". The fundamental issue therefore is whether the complainant is an employee of the person against whom a complaint is made under the Maharashtra Act and if there is a dispute, he has to establish it, first before the appropriate forum designated for adjudication of such industrial disputes. Section 32 does not aid the appellant in the sense that it is not a matter arising out of the application, when the pre-existing relationship of employer-employee is a must and an essential prerequisite. It is the core issue on which only the very locus to make a complaint can at all be claimed. A person who does not answer the description has no legal locus to file a complaint. A jurisdictional fact is one on the existence or otherwise of which depends assumption or refusal to assume jurisdiction by a court, tribunal or authority. The said fact has to be established and its existence proved before a court under the Maharashtra Act can assume jurisdiction of a particular case. If the complaint is made prima facie accepting existence of the contractor, in such a case what has to be first established is whether the arrangement or agreement between the complainant and the contractor is sham or bogus. There is an inherent admission in such a situation that patently the arrangement is between the complainant and the contractor and the claim for a new and different relationship itself is a disputed fact. To put it differently, the complainant seeks for a declaration that such arrangement is not a real one but something which is a facade. There is no direct agreement between the complainant and the principal employer and one such is sought to be claimed but not substantiated in accordance with law. The relief in a sense relates to a legal assumption that the hidden agreement or arrangement has to be surfaced. Entries 5, 6, 9 and 10 of Schedule IV of the Maharashtra-Act read as follows:

"5. To show favouritism or partiality to one set of workers, regardless of merits.

6. To employ employees as 'badlis', casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees.

* * *

9. Failure to implement award, settlement or agreement.
10. To indulge in act of force or violence".

24. The common thread passing through all these judgments is that the threshold question to be decided is whether the industrial dispute could be raised for abolition of the contract labour system in view of the provisions of the Maharashtra Act. What happens to an employee engaged by the contractor if the contract made is abolished, is not really involved in the dispute. There can be no quarrel with the proposition as contended by the appellants that the jurisdiction to decide a matter would essentially depend upon pleadings in the plaint. But in a case like the present one, where the fundamental fact decides the jurisdiction to entertain the complaint itself, the position would be slightly different. In order to entertain a complaint under the Maharashtra Act it has to be established that the claimant was an employee of the employer against whom complaint is made under the ID Act. When there is no dispute about such relationship, as noted in para 9 of *Cipla case* the Maharashtra Act would have full application. When that basic claim is disputed obviously the issue has to be adjudicated by the forum which is competent to adjudicate. The sine qua non for application of the concept of unfair labour practice is the existence of a direct relationship of employer and employee. Until that basic question is decided, the forum recedes to the background in the sense that first that question has to be got separately adjudicated. Even if it is accepted for the sake of arguments that two forums are available, the court certainly can say which is the more appropriate forum to effectively get it adjudicated and that is what has been precisely said in the three decisions. Once the existence of a contractor is accepted, it leads to an inevitable conclusion that a relationship exists between the contractor and the complainant. According to them, the contract was a facade and sham one which has no real effectiveness. As rightly observed in *Cipla case* it is the relationship existing by contractual arrangement which is sought to be abandoned and negated and in its place the complainant's claim is to the effect that there was in reality a relationship between the employer and the complainant directly. It is the establishment of the existence of such an arrangement which decides the jurisdiction. That being the position, *Cipla case* rightly hold that an industrial dispute has to be raised before the Tribunal under the ID Act to have the issue relating to actual nature of employment sorted out. That being the position, we find that there is no scope for reconsidering *Cipla case* the view which really echoed the one taken about almost a decade back."

20 Thus in *Sarva Shramik Sangh*, the Apex Court held that there was no necessity of taking a view different from the one taken in various previous decisions including *Cipla Ltd*.

21 Division Bench of this Court in *Asia Foundation and Construction Limited Nagpur* (supra), while following the ratio in *Cipla Ltd* and *Sarva*

Shramik Sangh has in fact gone a step ahead and has held that the Industrial Court cannot even undertake the exercise of determining employer-employee relationship for assuming jurisdiction. The judgment authored by His Lordship *Justice B.R. Gavai* (as he then was) holds in paragraphs 20, 21, 23 and 26 as under:

20. It could thus clearly be seen that the learned Industrial Court has gone into the exercise of considering the entire evidence to come to a finding as to whether there existed an employers-employee relationship between the appellants and the members of the complainant - Union. With due respect, the said exercise is not permissible while entertaining the complaint under section 30 of the Act of 1971, as has been held by Their Lordships of the Apex Court.

21. The perusal of the judgment of the learned Single Judge would reveal that the learned Single Judge has examined from the aspect, as to whether the findings as recorded by the learned Single Judge on the basis of evidence recorded before it were perverse or not. It will be relevant to refer to paragraph No. 12 of the judgment of the learned Single Judge, as follow -

"12. These findings reached by the learned Member, Industrial Court are on the basis of evidence, which is available on record. I perused the entire evidence with the assistance of both the learned counsel and I find that the findings are not in any way perverse. The stand of the petitioners - employer that employees are engaged in loading and unloading work is therefore, apparently incorrect and the conclusion drawn by the Industrial Court in this respect, is therefore, justified."

23. It could thus be seen that the learned Single Judge held that the onus was on the appellants to establish that the employees were performing the work of loading and unloading and then only the question as to whether the Industrial Court possesses the jurisdiction to adjudicate upon disputed question of employer and employee relationship would have arisen. The learned Single Judge held that since the appellants have failed to prove that the employees were doing the work which is allotted to them by the Contractor, such a question did not fall for consideration. The learned Single Judge, therefore, held that the findings of the learned Industrial Court are not perverse. The learned Single Judge further observed that the judgments which are cited by the petitioner in that respect are, therefore, not relevant. With great respect, we find that the learned Single Judge has, therefore, also re-appreciated the evidence to decide the question as to whether there existed an employer - employee relationship or not. In our respectful view, such an enquiry could not have been embarked upon in the proceeding under section 30 of the Act of 1971.

26. We are, therefore, of the considered view that the learned Industrial Court as well as the learned Single Judge have erred in going into the question as to whether the employees, who were represented by the complainant, were in fact the employees of the appellants or not. At the costs of repetition we find that such an enquiry was not permissible in a complaint under section 30 of the Act of 171.”

22 Thus it has been held by Division Bench of this Court in ***Asia Foundation and Construction Limited Nagpur*** that even an enquiry into existence of employer-employee relationship by appreciating the evidence is impermissible once a dispute is created about existence of such relationship. Thus, existence of employer-employee relationship is a *sine qua non* for exercise of jurisdiction to entertain a Complaint of unfair labour practice under MRTU and PULP Act.

23. Keeping in mind the above broad principle, I now proceed to determine whether there existed any dispute about employer-employee relationship and whether Industrial Court could have entertained the Complaint filed by Respondents. As observed above, the objection raised by Petitioner-PCMC about maintainability of Complaint and about jurisdiction of Industrial Court to adjudicate the Complaint has been repelled by order on preliminary issue dated 22 November 2002, which is subject matter of challenge in Writ Petition No.4931 of 2003.

24 To understand the exact nature of Complaint filed by Respondents, it would be necessary to consider the averments made therein. Respondents averred in their Complaint as under:

“7)

The resolutions passed on 02.09 1997 and on 09.06.1998 enclosed herewith at annexure C & D. In order to implement these resolution Respondent Nos 4, 5, 6, 7, took the applications from the workers who are prepared to work @60/- per day or 1800 Rs. Per month and subsequently appointed the workers listed in the annexure 'B' by appointment letter, which are enclosed herewith an annexure 'E'. At the instance of Respondent No. 2 and 3, the Respondent No. 4, 5, 6, 7, appointed all these workers and issued appointment letters under their own signatures. All these workers individually appointed as contractors but never complied with the section 7 and 12 of the contract labour regulation and abolition Act 1970 and under Rule 17 and 18 Maharashtra Contract Labour (Regulation & Abolition Rules 1971).under these Act and rules the Registration and licence is compulsory condition for the contractor without this Registration and license contract labour should be called as labour of principle employer.

... ..

8) Therefore all these appointments naming the workers listed in the annexure B as Contractor is barred by the law and illegal. All the letters of appointment naming them as contractors is nothing but a coma fledged act to evade the responsibilities falling under several labour legislatures and in order to illegally deprived them of the status of workmen defined in the industrial disputes Act.

... ..

12) All these conditions of the work bestowed upon the Ghantagadi workers will Show that in fact they were working as the workers of the corporation under the disciplining authority of sanitary Inspector etc. and are compelled to perform the duties of permanent workers alongwith the restricted duty time. Wages paid to them on daily wage basis and/not as per the quantum of work without any legal intermediary contractor and the duties of these workers being of permanent nature so called contract nothing but sham contract. Infact the is explicit employment contract exists between Respondents and the workers listed in the annexure 'E', i.e., that of master and servant. All these illegal actions on the part of the Respondents in contravention of the contract labour Act and is a patent unfair labour practice under item 9 of schedule IV of the M.R.T.U & PULP. Act 1971. All these unfair labour practices are prohibited by law.

... ..”

14) Cause of action arose when the Respondents engaged themselves into unfair Labour practice by appointing these workers on the sham contract and illegally engaging themselves into this unfair labour practices continued to this date in contravention of the contract labour Act etc. Therefore the cause of action is continuous as the Respondents have continued to resort to unfair labour practice date to this date.”

25 The prayers raised in the Complaint were as under:

- “a) These abovementioned acts of the Respondents of carrying out the illegal Contract and appointing the employees on contract where the nature of work is of perennial continuous in nature which is statutorily binding upon the Respondents be declared as unfair labour practice under item 9 of schedule IV of the M.R.T.U. & P.U.L.P. Act 1971.
- b) The contract established by the Respondents in contravention of the section 7 & 12 of contract labour (Regulation & Abolition) Act be declared as illegal and be abolished.
- c) The 301 workers (given in annexure 'B') be declared the workers of the Respondent No.1 and also be directed to make all the workers permanent from the date of joining of duties with all the arrears of benefits and wages etc. at par with the permanent workers of the Respondent No. 1 in the same rank.
- d) The Respondent No. 1 to 7 be restrained by permanent injunction to not to Engage in the abovementioned unfair labour practices.
- e) The Respondent No. 1 to 7 be restrained from victimizing the workers by discontinuing them or by any mode of harassment by permanent injunction.
- f) Any just and equitable order in the interest of justice and equity may please be passed.
- g) The cost of this application be awarded against Respondent to complainant.

26 First reading of the averments and prayers in the Complaint no doubt creates a clear impression that the Respondents did seek a specific declaration that the contracts entered with them by the Petitioner-PCMC are sham and bogus and that they should be declared as workers of the Petitioner-PCMC by abolishing the contract system. Apart from the pleadings and prayers in the Complaint, the direction No. 4 in the operative portion of the final judgment and order dated 30 January 2023 again indicates that a declaration is given

that the Complainants are the employees of Petitioner-PCMC. The operative portion of the Industrial Court's order reads thus:

“26. In the result, I proceed to pass following order:

ORDER

1. The complaint is hereby allowed.
2. It is hereby held and declared that the respondents were indulged in unfair labour practices under items 5 and 9 of Schedule IV of the MRTU & PULP ACT, 1971.
3. The respondents are hereby directed to cease and desist from such unfair labour practices in future.
4. It is hereby declared that the complainants are the employees of the respondent No.1 corporation.
5. The complainants are entitled to absorption in service of the respondent No.1 Corporation except complainant Nos. 14, 15, 29, 36, 64, 72, 77, 93, 99, 105, 139, 154, 156, 173, 189, 191, 195, 197, 205, and 211 from the date of their joining service as per appointments at Exh. U-119.
6. The complainants are entitled for benefits in connection with their absorption i.e. arrears of benefits and wages which are applicable to the permanent employees of the respondent No.1 corporation doing similar work since the date of their joining service as per appointments at Exh. U-119.
7. The arrears of benefits and wages are payable to the legal heirs of the complainant Nos. 14, 15, 29, 36, 64, 72, 77, 93, 99, 105, 139, 154, 156, 173, 189, 191, 195, 197, 205, and 211 from the date of their joining service as per appointments at Exh. U-119 till the death of the respective complainant Nos. 14, 15, 29, 36, 64, 72, 77, 93, 99, 105, 139, 154, 156, 173, 189, 191, 195, 197, 205, and 211.
8. No order as to the costs.”

27 Petitioner has relied upon one of the letters awarding contract dated 3 August 1998 in the name of Laxman Vidurath Gaikwad. It would be necessary to reproduce the said letter alongwith its office translation as produced at Exhibit B-1 to the Petition:

“आदेश,

पिंपरी चिंचवड महानगरपालिका 'ड' प्रभाग कार्यालयाच्या कार्यक्षेत्रामध्ये घंटागाडी कचरा गोळा करणेचे कामासाठी त्याखालील अटी व शर्तीस बांधील राहून ठेकेदारी पध्दतीने काम देण्यात येत आहे.

अ.क.	ठेकेदाराचे नांव	प्रभाग क्रमांक
1	लक्ष्मण विदुरथ गायकवाड	अशोक थिएटर परिसर

अटी व शर्ती

1. कामाचा कालावधी दि. 4/8/98 ते दि. 31/8/98 असा राहील.
2. कामाची वेळ स. 7 ते 11 व दु. 2 ते 5 अशी राहील.
3. आरोग्य निरीक्षक नेमून देतील त्या ठिकाणी व नेमून दिलेल्या वेळेत घंटा वाजवत गाडीत कचरा गोळा करीत प्रत्येक घरासमोरून फिरावे लागेल. तसेच नेमून दिलेल्या ठिकाणीच कचरा खाली करावा लागेल. जमा होणारा कचरा पूर्ण क्षमतेने भरावा अशा किमान प्रतिदिनी 20 खेपा पुर्ण कराव्या लागतील.
4. सदर काम करताना कोणास इजा झाल्यास त्यास महापालिका जबाबदार राहणार नाही.
5. ज्या दिवशी काम करणार नाही त्या दिवसाचे र. रु.100/- प्रमाणे रक्कम बिलामधून कमी करण्यात येईल.
6. मुदत संपल्यानंतर बील दोन प्रतीमध्ये सादर करावे लागेल. बिलाची रक्कम घनादेशाद्वारे पारित करण्यात येईल.
7. आरोग्य निरीक्षक किंवा वरिष्ठ अधिकरी यांच्या शिफारशीन्वयेच बिल अदा करणेत येईल.
8. काम समाधानकारक नसल्यास किंवा अन्य तक्रारी असल्यास पुर्व सूचना न देता सदरच्या ठेकेदाराचे काम बंद करणेत येईल.
9. सदर कामी पुरविलेले साहित्या रोजचेरोज व्यवस्थीत वापरून संध्याकाळी आरोग्य कार्यालयात जमा करावे. मोडतोड झाल्यास दुरुस्ती खर्च बीलामधून वसूल करणेत येईल.”

(Translation of above Marathi portion)

“Terms and conditions:

1. The duration of work shall be from 4/8/98 to 31/8/98.
2. Work hours shall be 7 am to 11 am and 2 pm to 5 pm.
3. The contractor is required to draw cart, ringing bell, door to door in the area determined and time indicated by the Health Inspector and collect garbage. The garbage shall have to be dumped at a place determined by Health Inspector. At least 20 rounds per day involving garbage collection to the full capacity of the cart shall have to be made.
4. In the event any person is injured while conduction the work, the corporation shall not be responsible for the same.
5. In the event no work is done on a particular day, a sum of Rs. 100/- shall be deducted from the bill amount.
6. At the expiry of the contract period, bill in duplicate shall have to be submitted. The bill amount shall be paid through cheque.

7. Bills shall be paid as per the recommendation of the Health Inspector or the Higher Authorities.
8. If the work is not satisfactory or in case there are complaints, the contract of the contractor shall be terminated without prior notice.
9. The tools provided for the work shall be used properly and deposited with the Health Department at the end of the day. In case of wear and tear, amount for repair shall be deducted from the bill amount.”

28 Thus the letters by which the work of garbage collection was allotted to Respondents again indicate that the work was allotted on contract basis.

29 On the basis of the Contract Award Letter dated 3 August 1998, pleadings and prayers in the Complaint as well as direction No.4 in the operative portion of the Industrial Court, Mr. Kumbhakoni has submitted that a clear dispute about existence of employer-employee relationship was raised in the Complaint by the Complainants and what they actually sought before the Industrial Court was conversion of their contracts into employment with Petitioner-PCMC. He has submitted that the findings recorded by the Industrial Court also shows that the entire enquiry revolved around the question whether Respondents were mere contractors or in fact employees of Petitioner-PCMC. It appears that in paragraph 18 of the Judgment the Industrial Court, after assessing evidence on record has recorded a finding that “*thus there is employer employee relationship between Complainants and Respondent No.1-PCMC*”. According to Mr. Kumbhakoni, there can be no iota of doubt that the Respondents raised dispute about existence of employer-employee relationship, they sought to establish such relationship and the Industrial Court conducted enquiry by appreciation of evidence about existence of such relationship. According to him such an exercise is clearly

impermissible in view of law expounded by Division Bench of this Court in *Asia Foundation and Construction Limited Nagpur* (supra).

30 While Mr. Kumbhakoni cannot be said to be entirely wrong in contending that Respondents sought to establish employer-employee relationship in the Complaint and that the Industrial Court has also conducted an enquiry into such relationship, the issue remains as to whether such an enquiry was even necessary to be conducted in the facts and circumstances of the present case. When workers seek a declaration of contract being sham and bogus, there is always engagement of workers through a contractor. In such cases, what is actually sought to be established is that instead of directly employing the workers, they are deliberately routed through a contractor with a view to avoid obligations arising out of labour enactments.

31 Conceptually, there is a difference in a case (i) where a contract is actually awarded to an intermediary, who then employs workers for execution of the contract and (ii) where the person engaged for execution of work, instead of being referred to as workman/employee is deliberately referred to as a contractor. Again when it comes to availing services of persons for execution of work on contract basis, there can be three types of arrangements viz.

(i) where a third party contractor is awarded contract for execution of particular work and the contractor employs his own manpower, with or without equipment, to execute that work,

- (ii) where an individual is awarded the work to be performed on contract basis all by himself, with or without utilizing his own equipment for execution of work,
- (iii) where the employer actually appoints a worker on a fixed term contract basis where there is a contract of service.

32. There can be no dispute about the third category of contracts, which are not contracts in real sense and where there is a direct relationship between the employer and workmen. In that category, the relationship is not disputed, the worker works for the employer and draws wages, however the appointment is often made on a project for a fixed period and the terms and conditions are governed by contract of service and not by rules and regulations applicable to the establishment. In respect of first category of contracts, there is absolutely no employer-employee relationship between the parties and in such cases for establishment such relationship, a declaration of contract being sham and bogus becomes necessary.

33 Thus, conceptually there is no difficulty in respect of first and third category of contracts with regard to the issue of jurisdiction of Industrial Court to entertain a Complaint of unfair labour practice under MRTU and PULP Act. In first category of contracts, the Complaint under MRTU & PULP Act cannot be filed and it is necessary for the worker to raise an industrial dispute and first get employer-employee relationship established in such Reference by proving that the contract is sham and bogus. In the third category of contracts,

Complaint of unfair labour practice can be filed under MRTU & PULP Act, since no dispute exists about employer-employee relationship and the concerned worker can allege unfair labour practice in relation to the services performed by him/her towards execution of the concerned contract of service.

34 The real difficulty arises in the second category of contracts described above, which are involved in the present case. It must be observed here that these categories of contracts are rare, especially in relation to State Instrumentalities. In private establishments, such individual contracts can be awarded e.g. awarding of contract for finalization of accounts to an individual outsider accountant or awarding contract for scanning of documents to an individual or award of contract to complete specified data entry work of an establishment. However, in State Instrumentalities such individual contracts are usually not awarded. The distinguishing feature of such individual contract is that the contractor concerned is not legally bound to work only for the establishment concerned and is usually free to take up other assignments as well since there is no employer-employee relationship. In the present case, it is sought to be contended on behalf of Petitioner-PCMC that what is awarded to the Respondents are individual contracts, not creating any employer-employee relationship. However, on a deeper scrutiny, in arrangement made by Petitioner-PCMC, to my mind, use of the words 'contract' or 'contractor' appear to be merely a semantic exercise possibly to avoid any obligation towards the concerned persons with whom such arrangement is made. This is clear from following:

(i) Persons to whom contracts were issued for door to door collection of Municipal solid waste by use of push-carts (*ghantagadi*) were required to work under complete supervision and control of the officials of Petitioner-PCMC.

(ii) The engagement letter specified time when such services were to be performed i.e. 7 a.m. to 11 a.m. and 2 p.m. to 5 p.m.

(iii) Letter specified that the work was to be carried out as per instructions of Health Inspector and the place and time specified by him.

(iv) Provision was made for deduction of amount on per day basis for absence,

(v) Letter contained a condition for termination of work for unsatisfactory work or receipt of complaints.

(vi) Most importantly, entire equipment for performance of the work was to be provided by Petitioner-PCMC.

(vii) The concept of issuing individual contracts for door-to-door collection of garbage was commenced with approval of Standing Committee who adopted resolution on 2 September 1997 for allotment of work without inviting tenders.

(viii) The resolution provided for payment of fixed amount of Rs. 1,800/- per person. The contract amount was thus supposed to be paid on per month basis and not based on quantum of garbage handled.

(ix) Attendance of Respondents was marked by the officials of the Municipal Corporation.

35 Above are some of the factors as they existed before filing of Complaint (ULP) No.139 of 1999. After the Complaint was filed and the Respondents were continued by Petitioner-PCMC, its conduct leaves no manner doubt that Respondents were treated nothing short of direct its employees. To make things worse for Petitioner-PCMC, it started correspondence with the State Government as early as on 11 August 2000 requesting for approval to absorb Respondents in Municipal service. Five such proposals were sent to the State Government on 11 August 2000, 23 October 2000, 29 December 2000, 29 December 2003 and 16 November 2005. If Respondents were really individual contractors, it is unfathomable as to why the Petitioner-PCMC would seek State Government's approval for their absorption in Municipal service.

36 Even in respect of period prior to passing of Order on preliminary issues on 22 November 2002, the Industrial Court has recorded following findings with regard to the manner in which Respondents were treated by Petitioner-PCMC:

“10. The complainants had given notice, Ex. UA- 13 requesting the respondents to produce documents and application submitted by the complainants appointment orders issued by the respondents to them resolution dated 26.8.1997; copy of resolution dated 31.8.1998 muster-roll-cum-wage register of employees for 1997 to 2002. The respondents were directed to produce documents at Sr. Nos. 1 to 4, but those documents are not produced on record. The alleged contracts executed by the complainants are not produced on record. On the other hand, the complainants have produced documents along with Ex. UA-19. By letter dated 1.7.2000. Additional Commissioner of Respondent No.1 Corpn, directed the Head Master of Resident Govt. Vidhyaniketan, Jail Road, Yerawada, Pune-6 to admit pupils of Ghanta Gadi employee Shri Ganesh Baban Pawar-Kum. Tukaram Ganesh Pawar and Kum. Mukta Ganewh Pawar in third and second standard respectively. A Certificate has been issued on 22.11.1997 for one Shri Anant Sahadeo Gothali

certifying that he is working as Ghanta Gadi Karmachari. The certificate is issued by Sanitary Inspector. By letter dated 17.12.1998. The Municipal Commissioner directed to provide free medical facilities to Ghanta Gadi employees. Letter dated 11.10.1999 issued by Commissioner of Respondent No.1 Corpn. directing Ghanta Gadi employees to work on Pulse Polio Campaign on 24.10.1999, 21.11.1999, 19.12.1999 and 23.1.2000. Several documents are produced on record that the Commissioner Additional Commissioner of Respondent No.1 Corpn. issued directions to Ghanta Gadi employees. By letter dated 26.2.2002, the Zonal Officer directed the employees for doing cleaning and sanitary including Ghanta Gadi employee Shri Santosh Borse. If all the documents produced with list, Ex. UA-19 are considered, repeatedly directions are issued to Ghanta Gadi employees by different Officers of Respondent No.1.”

37 The above findings would leave no manner of doubt that right since beginning, Petitioner-PCMC always treated Respondents as their employees. Reliance is placed on a document issued as early as on 22 November 1997 certifying that one of the Respondent Shri Anant Sahadeo Gothali was working as ‘*Ghantagadi Karmachari*’. It is not disputed that Municipal Commissioner directed provision of free medical facilities to Respondents. They have been deployed to work on Pulse Polio Campaign implemented by Petitioner-PCMC. Their children were admitted in schools by treating them as ‘*Ghantagadi employees*’. In addition to collection of door-to-door garbage, their services were also utilized for other cleaning and sanitary activities. While Mr. Kumbhakoni has sought to dissuade this Court from relying on the said actions for twin reasons of (i) above actions being taken by lower-level Municipal officials, which does not create employer-employee relationship, and (ii) occasional utilization of Respondents on other works on account of grant of interim stay by the Industrial Court. However, I am not impressed by either of the reasons. The entire executive power under the MMC Act vests in Municipal Commissioner under section 67(3). It is not that the Municipal

Commissioner must always himself exercise such executive powers, Municipal Commissioner is authorized to delegate his powers and functions to lower-level officials. It would therefore be too far-fetched to contend that the acts of Ward Officers or Assistant Commissioners or Superintendents would not bind Petitioner-PCMC in any manner. In fact, the argument of Zonal Officers/Ward Officers issuing individual contracts not amounting to making of appointment by Petitioner-PCMC is also premised similar argument of their acts not binding Petitioner-PCMC. In my view, this contention sought to be raised on behalf of Petitioner-PCMC is stated only to be rejected. The concerned Zonal Officer/Ward Officer has acted as per the decision taken by the Standing Committee of the Petitioner-PCMC. It is not disputed that the Municipal Commissioner has issued directions for provision of free medical facilities to Respondents. They are always treated and described as “*Ghantagadi Karmachari*”. Except initial engagement letters describing them as ‘Ghantagadi Contractor’, most of the documents/correspondence uses the word “*Karmachari*” (employee) to describe them. Thus, Respondents were always treated as employees and not contractors.

38 Considering the above position, I am of the view that it was not necessary for Respondents to seek a declaration about existence of employer-employee relationship on account of the fact that they were always treated as employees by the Petitioner-PCMC for all practical purposes. As observed above, declaration of existence of employer-employee relationship becomes necessary only where workers are employed through intermediate contractor. When there is no third person available in respect of arrangement between

entity awarding so called contract and the contractor concerned, there is no question of seeking any declaration of contract being sham and bogus. This is because there was already a direct relationship between Petitioner and Respondents. It is Petitioner who was directly paying them the amounts for performance of work. It was Petitioner who had power to terminate their so-called contracts. The directions to work in particular manner and at particular place was also issued by the municipal officials. Therefore, there was no arrangement which was required to be declared sham or bogus. In my view, therefore the usual principle of non-maintainability of Complaint of unfair labour practice on account of existence of dispute of employer-employee relationship would not be attracted in the facts and circumstances of the present case.

39 Respondents could have and ought to have simply sought a declaration for their absorption in Municipal service and in fact such a relief was sought in second part of prayer clause (c) in the Complaint wherein prayer was made that “*be directed to make all the workers permanent from the date of joining of duties.....*” On account of unnecessary debate created by Respondents before the Industrial Court relating to declaration of they being employees of Petitioner-PCMC, objection relating to maintainability of the Complaint and jurisdiction of Industrial Court was raised, which in my view was quite unnecessary.

40 Petitioner-PCMC itself has placed on record some of the correspondence that took place between it and the State Government on the

subject of absorption of Respondents in service. Though all the proposals since the year 2000 are not placed on record, one such proposal dated 17 April 2008 is produced alongwith the Petition. The proposal was sent by the Municipal Commissioner to the Principal Secretary, Urban Development Department, Mantralaya, Mumbai. The proposal referred to the scheme of cleanliness implemented by the then Municipal Commissioner in the year 1997, which included *inter alia* door to door garbage collection by use of pushcarts. The proposal then referred to the number of persons engaged on pushcarts as contractors. Reference is made to Complaint (ULP) No.139 of 1999. The proposal thereafter gave details of total 353 contractors, who had rendered services ranging between 7 to 9 years. The proposal also referred to various resolutions adopted by General Body and Standing Committee for absorption of such *Ghantagadi* employees in Municipal service. This is how, proposal was sent to the State Government pointing out that Respondents were willing to give-up claim for backwages and that in the event of Complaint being allowed, Petitioner-PCMC would be burdened with amount of Rs. 29.04 crores towards backwages. It appears that the proposal of Petitioner-PCMC has been rejected by the State Government vide letter dated 18 May 2010 essentially referring to the judgment of the Apex Court in ***Secretary, State of Karnataka and others vs. Umadevi and others***⁷ holding that the Respondents were back-door entrants. Without going into the aspect of entitlement of Respondents to regularization at this juncture, what is necessary to note in the State Government's Reply dated 18 May 2010 is repeated use of the word 'backdoor entry'. The State Government thus did not reject the proposal stating that the

7 AIR 2006 SC 1806

pure contractor cannot be absorbed in Municipal service in absence of employer-employee relationship. On the contrary, the State Government also treated the Respondents as employees but refused to approve their absorption on the ground that they are back-door entrants.

41 There can be little doubt that the Petitioner-PCMC itself was making repeated efforts to absorb Respondents in service. No doubt, Petitioner-PCMC initially adopted a defence that Respondents were pure contractors, however during pendency of the litigation in last 25 long years, it has definitely changed its stance and has been treating them virtually as their employees. Therefore, though Writ Petition No.4931 of 2003 continuous to remain pending raising the issue of maintainability of the Complaint, alteration in the stand of the Petitioner-PCMC by repeatedly sending proposals for absorption of Respondents in service by treating them as employees of Petitioner-PCMC has definitely reduced the severity of objection of maintainability of the Complaint.

42 In fact when Writ Petition No.4931 of 2003 had come up before this Court on 10 July 2014, the learned Judge (*N. M Jamdar, J.*) clearly expressed as under:

7. The learned counsel for the Respondent Union submitted that in all the decisions which are cited and referred to above are in the cases where the workmen are employed through contractor and where they are trying to change their employer then such dispute will not fall in the jurisdiction of the Court under the M.R.T.U. & P.U.L.P. Act. He submitted that, in the present case, however, it is the case of the respondent Union that the Corporation is their employer, however, they have been wrongfully given appointments on contract basis which is an unfair labour practice. The learned counsel for the respondent Union has

drawn my attention to the decision of the learned Single Judge in case of **Raigad Mazdoor Sangh** (supra), where the learned Single Judge observed as under :

*“3. Insofar as the first contention is concerned, in my opinion, considering the provisions of the M.R.T.U. & P.U.L.P. Act and the judgment of the apex Court in the case of **Vividh Kamgar Sabha v/s Kalyani Steels Ltd.** (supra) and the subsequent judgment in the case of **Cipla Ltd. v/s Maharashtra General Kamgar Union** in Civil Appeal No.12845 of 1996 decided on 21st February, 2001 (**2001 I CLR 754**) the Tribunal under the M.R.T.U. & P.U.L.P. Act, in case where admittedly there is a contractor registered under the Contract Labour Registration Act would have no jurisdiction to entertain the complaint. It may, however, be made clear that what the Apex Court has held is in a case where the Contractor is a contractor registered under the Contract Labour Regulations Employment Act. **There are situations wherein the employees are made contractors, and may in situations be registered under the Contract Labour Regulations Employment Act whether on the facts of such cases would the Courts under the M.R.T.U. & P.U.L.P. Act would cease to have jurisdiction, to my mind, is an issue which has not been decided.**”*

The learned Judge noted that the issue whether the Court under the M.R.T.U. & P.U.L.P. Act would have jurisdiction when the employees are made contractor, was not decided. **The learned counsel for the parties submitted that, in spite of their best efforts they have not been able to locate any direct judgment on the issue.**

“8. The question therefore arose is, whether the Respondent Union can maintain a complaint on the ground that they are employees of the Petitioner Corporation but they were wrongly shown as working on contract without any contracts in between. In the case of *Sarva Shramik Sangh* (supra), the Apex Court, in paragraph 23 reproduced above, has laid down a wider proposition that it is necessary for the complainant to show, as a condition precedent, to have been treated by the employer as his employee, and unless this is shown, the Court will have no jurisdiction. It is not a question of ouster of jurisdiction but acceptance of the status as an employee is a condition precedent. Therefore, the question is whether these observations, which are in wide terms are to be made applicable to the facts of the present case as well and to hold that the complaint is not maintainable. Before doing so, it will have to be kept in mind that the M.R.T.U. & P.U.L.P. Act is a beneficial legislation meant to provide the workmen with expeditious additional remedy, and the provisions of this Act have been liberally construed.”

(emphasis added)

43 Thus the usual objection of bar of jurisdiction to entertain complaint of unfair labour practice in the light of existence of dispute as employer-employee would not apply to the present case, where there is no triangular arrangement of principal employer, third part contractor and worker. Use of the words

‘contract’ and ‘contractor’ in the present case is nothing but a semantic exercise and Petitioner has virtually employed Respondents. Therefore, declaration of Respondents being employees of Petitioner was not necessary in the Compliant. Even if, it is to be assumed that such declaration was needed, the said declaration cannot be put on the same pedestal as that of a declaration of contract beings sham and bogus in a triangular arrangement of principal employer, contractor and worker.

44. Considering the peculiar facts of the present case, where there is no intermediate contractor between Petitioner-PCMC and Respondents coupled with paradigm shift in Petitioner’s stance by treating them as employees, in my view, the objection of maintainability of Complaint and jurisdiction of Industrial Court needs to be repelled. As observed above, it was not necessary for Respondents to seek a declaration of existence of employer-employee relationship as use of the word ‘contract’ or ‘contractor’ to describe the arrangement is nothing but a semantic exercise, when in fact the Respondents have actually worked for Petitioner-PCMC for remuneration. In absence of intermediate contractor, declaration of contract being sham and bogus cannot be, and in the present case, need not be sought. It is therefore held that Respondents are not contractors, but merely contract employees of Petitioner Municipal Corporation. I am therefore of the view that neither Order dated 22 November 2002 on preliminary issue nor the final judgment and order dated 30 January 2023 suffer from any jurisdictional error. The Industrial Court has rightly entertained the Complaint of the Respondents and adjudicated their demand for absorption in service.

45. Since it is held that Respondents were/are not contractors but contract employees of the Municipal Corporation, it is not necessary to consider the issue of fulfilment of 6 tests laid down by the Apex Court in ***Balwant Singh Saluja***.

46 Having answered the issue of maintainability of Complaint and jurisdiction of Industrial Court, the next issue is about entitlement of Respondents to seek absorption in service of Petitioner-PCMC. Once Respondents are treated as employees of Petitioner-PCMC, the length of service rendered by them since initial engagements will have to be considered and by now, they have rendered more than 25 years of service. In fact, many of them have expired during pendency of the litigation.

47. Since the case involves the issue of absorption of Respondents in municipal service, the same cannot be resolved without making reference to the landmark judgment of the Constitution Bench in ***Umadevi*** (supra). After the judgment in ***Umadevi***, regularization of casual/*ad hoc*/temporary/contract employees in Government services is now virtually impermissible merely on the basis of length of service rendered by such employees. In paragraph 43 of the judgment the Apex Court has held as under:

“43. Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual

appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

48 A onetime exception however is carved out in *Umadevi* for regularization of irregularly appointed employees against regularly sanctioned posts, who had worked for 10 years without intervention of orders of Courts or Tribunals. In paragraph 53 the Apex Court has directed as under:

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *State of Mysore vs. S.V. Narayanappa*, (1967) 1 SCR 128, *R. N. Nanjundappa vs. T. Thimmaiah*, (1972) 1 SCC 409 and *B.N. Nagarajan vs. State of Karnataka*, (1979) 4 SCC 507 and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the Courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to

regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

49 If the claims of Respondents are to be considered strictly in accordance with the judgment of Constitution Bench in *Umadevi* obviously they cannot be absorbed in service. Similarly, the claim for absorption in service merely on completion of 240 days of service under clause 4-C of Model Standing Orders formulated under Industrial Employment (Standing Orders) Act, 1946 is frowned upon by the Division Bench of this Court in *The Municipal Council, Tirora and another vs. Tulsidas Baliram Bindhade*⁸, in which it is held in paragraphs 19 to 21 as under:

19. In this reference, the position emerging before us is similar. There is no conflict between the provisions of M.S.O. 4C and the provisions of the section 76 of the 1965 Act. In the event of the appointment having been made validly, it may be possible to invoke the provisions Cl. 4C of M.S.O. A view to the contrary would result in regularizing/validating a void act. Cl. 4C neither permits nor contemplates the same. As held in the above judgments, if the appointment is not made in accordance with the constitutional scheme, it is void ab initio and, therefore, there can be no claim to its regularization or for grant of permanency in any manner. This is all the more so as Cl. 32 of the M.S.O. clarifies that the Standing Orders are not to operate in derogation of any other law i.e, section 76 of 1965 Act. Definitely any interpretation of Clause 4C conducive to defeating the Constitutional mandate is unwarranted. Violation of Clause 4C of the MSO may tantamount to an unfair labour practice under item 9 of Sch. IV of the 1971 Act but unless and until, other additional factors are proved on record, finding of indulgence in an unfair labour practice under Item 6 of Sch. IV thereof cannot be reached. As explained by the Hon'ble Apex Court in case of *Maharashtra SRTC vs. Casteribe Rajya Parivahan Karmchhari Sanghatana*, (supra), existence of a legal vacancy must be established and as discussed above, the power to recruit with the employer must also be

8 2016 (6) MhLJ 867

demonstrated. In absence thereof, workman cannot succeed in proving the commission of unfair labour practice under Item 6 by the employer. These two ingredients, therefore, also must be established when benefit of Cl. 4C is being claimed. Unless availability of a vacancy is shown or then power with the employer to create the post and to fill it is brought on record, mere continuation of 240 days cannot and does not enable the workman to claim permanency by taking recourse to Cl. 4C read with Item 9 of Sch. IV of 1971 Act. Clause 4C does not employ word "regularisation" but then it is implicit in it as no "permanency" is possible without it. Conversely, it follows that when a statutory provision like section 76 disables the employer either from creating or filling in the posts, such a claim cannot be sustained. This also nullifies the reliance upon the judgment of learned Single Judge in case of *Maharashtra Lok Kamgar Sanghatana vs. Ballarpur Industries Limited* (supra) where the employer was a private Company not subjected to such regulatory measures by any Statute and enjoyed full freedom to create the posts and to recruit. One of us (B.P. Dharmadhikari, J.) is party to the judgment of this Court in *Raymond UCO Denim Private Ltd. vs. Praful Warade and ors.* (supra) which again needs to be distinguished for the same reasons. The judgment of learned Single Judge in case of *Indian Tobacco Company Ltd. vs. Industrial Court and ors.* (supra), judgment of Hon'ble Apex Court affirming it or then judgment of Hon'ble Apex Court reported at *Western India Match Company Ltd. and Workmen* are all considered therein and are distinguishable as the same do not pertain to the province of public employment or consider inherent Constitutional restraints (*the suprema lex - see Mahendra L. Jain vs. Indore Development Authority and others* (supra) and Cl. 32 of the MSO. For same reasons, law laid down by the Full Bench judgment of this Court in 2007(1) Mh.L.J. (F.B.) 754 2007 (1) CLR 460 *Gangadhar Balgopal Nair vs. Voltas Limited and anr.* does not advance the cause of workmen. The Division Bench of this Court in *May and Baker Ltd. vs. Kishore Jaikishandas Icchaporía* (supra) while construing section 10A(3) held that the expression "other law" would not refer to the Model Standing Orders or the Certified Standing Orders since they are laws made under the provisions of Parent Act itself and not under any other law. The Model Standing Orders and Certified Standing Orders, held the Division Bench, "are laws no doubt but they are laws made under the provisions of the Act". They were held not to be provisions under any other law. This discussion therefore shows how these words "in derogation of any law for the time being in force" in Cl. 32 of MSO need to be understood and does not help Adv. Jaiswal or Adv. Khan.

20. In *Vice-chancellor, Lucknow University vs. Akhilesh Kumar Khare and anr.* (supra) relied upon by Adv. Parihar, Hon'ble Apex Court follows its Constitution Bench in *Umadevi (III)* and while rejecting relief of regularization to the daily wagers who were engaged in public employment without proper procedure, grants them compensation of 4 Lakh each by way of compassion. This judgment does not consider any welfare labour legislation and, therefore, cannot provide direct answer to the reference made. Judgment of this Court taking similar view in the light of 1971 Act in the case of *Punjabrao Krishi Vidyapeeth, Akola vs. General Secretary, Krishi Vidyapeeth Kamgar Union and anr.* (supra) is already considered above. The Division Bench of this Court in *State of Maharashtra and anr. vs. Pandurang*

Sitaram Jadhav (supra) finds that the respondents before it were employed as daily wagers in the establishment of the Government Milk Dairy for a longer period of 12 to 20 years. There were no sanctioned posts and vacancies in existence in the concerned department. Respondents failed to demonstrate that their appointments were made in accordance with the procedure prescribed for selection. The Division Bench finds it wholly unjust to direct the appellant State Government to grant permanency to the respondents. It points out that the provisions of Model Standing Orders are subject to the Rules regulating selection and appointment so also subject to the constitutional scheme of public employment. Respondents daily wagers are declared to possess no legal right to claim permanency. Order passed by the learned Single Judge to the contrary have been quashed. State Government is held obliged to make appointments in adherence to the constitutional scheme of Public employment. Respondents Daily Wagers appointed without following the prescribed procedure for selection by passing public participation did not acquire any legal right to claim permanency. It is apparent that no inconsistency exists and cannot be worked out in *State of Maharashtra and anr. vs. Pandurang Sitaram Jadhav* as also *Pune Municipal Corporation vs. Dhananjay Prabhakar Gokhale* (supra) on one hand and *Ballarpur Industries Limited vs. Maharashtra Lok Kamgar Sanghatana* (supra) on the other hand. Status of employer, nature of employment and inherent Constitutional limitation on public employer or absence of such fetters on any private employer or absolute freedom available to it to create post/s and recruit, are some of the distinguishing features which prohibit this exercise.

21. Thus, in the light of this discussion, it follows that in absence of vacant sanctioned posts with the Municipal Council, a workman who has put in continuous service of 240 days or more in span of 12 months, cannot invoke Clause 4C of the MSO to claim either permanency or regularization. We accordingly answer the question referred. Registry to place the writ petitions before the learned Single Judge as per roster assignment for further consideration.

Order accordingly.”

50 However, what really comes to the rescue of Respondents are the judgments of Apex Court in *Maharashtra State Road Transport Corporation and another vs. Casteribe Rajya Parivahan Karmachari Sanghatana*⁹ and *Hari Nandan Prasad & Anr. vs. Employer I/R to Management of FCI and Another*¹⁰. Both the judgments relate to jurisdiction of an industrial adjudicator to grant relief under Labour Legislations in view of law laid down

9 2009 (8) SCC 556

10 2014 (7) SCC 190

by Constitution Bench in *Umadevi*. After considering the judgment in *Casteribe* the Apex Court has held in *Hari Nandan Prasad & Anr.* (supra) in paragraphs 34, 35, 39 and 40 as under:

“34. A close scrutiny of the two cases, thus, would reveal that the law laid down in those cases is not contradictory to each other. In *U.P. Power Corpn. Ltd. vs. Bijli Mazdoor Sangh*, (2007) 5 SCC 755, this Court has recognised the powers of the Labour Court and at the same time emphasised that the Labour Court is to keep in mind that there should not be any direction of regularisation if this offends the provisions of Article 14 of the Constitution on which the judgment in *State of Karnataka vs. Umadevi (3)*, (2006) 4 SCC 1 is primarily founded. On the other hand, in *State of Maharashtra vs. R.S. Bhonde*, (2005) 6 SCC 751 : 2005 SCC (L&S) 907 the Court has recognised the principle that having regard to the statutory powers conferred upon the Labour Court/Industrial Court to grant certain reliefs to the workmen, which includes the relief of giving the status of permanency to the contract employees, such statutory power does not get denuded by the judgment in *State of Karnataka vs. Umadevi (3)* case (2006) 4 SCC 1. It is clear from the reading of this judgment that such a power is to be exercised when the employer has indulged in unfair labour practice by not filling up permanent posts even when available and continuing to employ workers on temporary/daily-wage basis and taking the same work from them and making them do some purpose which was being performed by the regular workers but paying them much less wages. It is only when a particular practice is found to be unfair labour practice, as enumerated in Schedule IV of the MRTP and PULP Act, and it necessitates giving direction under Section 30 of the said Act, that the court would give such a direction.

35. We are conscious of the fact that the aforesaid judgment is rendered under the MRTP and PULP Act and the specific provisions of that Act were considered to ascertain the powers conferred upon the Industrial Tribunal/ Labour Court by the said Act. At the same time, it also hardly needs to be emphasised that the powers of the industrial adjudicator under the Industrial Disputes Act are equally wide. The Act deals with industrial disputes. provides for conciliation, adjudication and settlements, and regulates the rights of the parties and the enforcement of the awards and settlements. Thus, by empowering the adjudicator authorities under the Act to give reliefs such as reinstatement of wrongfully dismissed or discharged workmen, 9 which may not be permissible in common law or justified under the terms of the contract between the employer and such workmen, the legislature has attempted to frustrate the unfair labour practices and secure the policy of collective bargaining as a road to industrial peace.”

39. On a harmonious reading of the two judgments discussed in detail above, we are of the opinion that when there are posts available, in the absence of any unfair labour practice the Labour Court would not give direction for regularisation only because a worker has continued as daily-wage worker/ad hoc/temporary worker for number of years. Further, if

there are no posts available, such a direction for regularisation would be impermissible. In the aforesaid circumstances giving of direction to regularise such a person, only on the basis of number of years put in by such a worker as daily-wager, etc. may amount to back door entry into the service which is an anathema to Article 14 of the Constitution. Further, such a direction would not be given when the worker concerned does not meet the eligibility requirement of the post in question as per the recruitment rules. **However, wherever it is found that similarly situated workmen are regularised by the employer itself under some scheme or otherwise and the workmen in question who have approached the Industrial/Labour Court are on a par with them, direction of regularisation in such cases may be legally justified, otherwise, non-regularisation of the left-over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Article 14 of the Constitution. Thus, the industrial adjudicator would be achieving the equality by upholding Article 14, rather than violating this constitutional provision.**

40. The aforesaid examples are only illustrative. It would depend on the facts of each case as to whether the order of regularisation is necessitated to advance justice or it has to be denied if giving of such a direction infringes upon the employer's rights.”

(emphasis added)

51 Thus in *Hari Nandan Prasad & Anr.* Apex Court has held that if posts are not available, issuance of directions for regularization is impermissible and such directions cannot be issued only on the basis of number of years put in by a daily wageer. However some exceptions are carved out by the Apex Court such as regularization of similarly placed workmen, regularization in pursuance of the scheme etc. In paragraph 40 of the judgment, the Apex Court has clarified that such examples are merely illustrative and that it would depend on facts of each case as to whether order of regularization is necessitated to advance justice or it has to be denied if giving such direction infringes upon the employer's rights.

52 In the present case, the observations of the Apex Court in paragraph 39 and 40 of the judgment in *Hari Nandan Prasad* needs to be invoked in the

light of Petitioner-PCMC's own eagerness to absorb Respondents in service. Thus, where the employer himself is eager to absorb its temporary workers in service, the same can be treated as one of the exceptions envisaged under paragraphs 39 and 40 of the judgment in *Hari Nandan Prasad*. In the present case, if the State Government was to accord sanction to the proposals sent by Petitioner-PCMC, Respondents would have been long since absorbed in service. The Petitioner-PCMC is prevented from absorbing them in service only on account of refusal to sanction the proposal by State Government. Careful perusal of letter dated 18 May 2010 of the State Government would indicate that there is no absolute refusal to accord sanction for the proposals mooted by successive Municipal Commissioners based on resolutions adopted by General Body and Standing Committee. One of the reasons why the proposal was rejected was on account of pendency of Writ Petition No.4931 of 2003 in this Court. In the last paragraph of the letter dated 18 May 2010 the State Government has referred to the pending litigation. Thus, when the proposal was rejected by the State Government on 18 May 2010 both Complaint (ULP) No.139 of 1999 as well as Writ Petition No.4931 of 2003 were pending. Thus, pendency of legal proceedings was possibly one of the reasons why the State Government thought it appropriate reject the proposals of the Petitioner-PCMC.

53. In *Nihal Singh v. State of Punjab*¹¹, the Apex Court has held as under:

37. We are of the opinion that neither the Government of Punjab nor these public sector banks can continue such a practice consistent with their obligation to func-

¹¹ (2013) 14 SCC 65

tion in accordance with the Constitution. **Umadevi (3) judgment cannot become a licence for exploitation by the State and its instrumentalities.**

(emphasis supplied)

54. The above judgments are not quoted to suggest any departure from principles enunciated in Constitution Bench Judgment in *Umadevi*. It also cannot be that industrial adjudicator can direct regularization de-horse the Judgment in *Umadevi*. However, in deserving cases like the present one where the Respondent has continued in service for 25 long years and especially where the Municipal Corporation itself was eager to regularize their services, the Industrial Court was justified in directing their absorption by taking into consideration unique circumstances of the case.

55 An exception to the law enunciated by Division Bench of this Court in *Municipal Council-Tirora* has been carved out by Single Judge of this Court (*Ravindra V. Ghuge J* in **Raigad Zilla Parishad & Ors. V/s. Kailash Balu Mhatre & Ors**¹², in which this Court held that though permanency cannot be granted to temporary employees under Clause 4-C of the Model Standing Orders in absence of availability of sanctioned posts, proposal needs to be sent to the State Government for sanction of the posts considering the long length of service rendered by the employees therein. In the present case, it appears that such exercise need not be undertaken. The Industrial Court has observed that out of 1521 sanctioned posts of Safai Kamgar, 468 posts were vacant as on the date of passing of the impugned judgment. Thus, there are available vacant posts coupled with eagerness of Petitioner-PCMC to

¹² Writ Petition No. 4307 of 2018 decided on 5 January 2022

regularize services of Respondents. One of the reasons why Writ Petition No.1860 of 2024 appears to have been filed by the Petitioner-PCMC challenging the final order of Industrial Court is on account of direction for absorption from dates of joining as well as for payment of arrears of benefits and wages from the dates of joining. It appears that in the proposal dated 17 April 2018, the Petitioner-PCMC had computed the liability towards backwages at Rs. 29.04 crores which by now must have escalated substantially after passage of six years from the date of said proposal. The Petitioner-Municipal Commissioner had recorded in its proposal, the willingness on the part of Respondents to give-up claim for backwages in the event of their absorption in service.

56 Considering the overall conspectus of the case in my view, direction for absorption of Respondents in Municipal services does not warrant any interference. The Industrial Court has however awarded absorption from the initial dates of engagements, which in my view would not be appropriate considering the facts and circumstances of the present case. The direction for payment of arrears of wages and benefits from the dates of initial engagement is not only unwarranted, but it will also put huge financial burden on the Petitioner-PCMC. Remanding the Compliant for decision of date for grant of absorption would further lengthen the litigation which has ensued for the last 25 long years. It would therefore be appropriate to decide the date from the which the benefit of absorption is to be granted in the unique facts and circumstances of the case. It has come of record that the Municipal Corporation resolved to absorb Respondents in service vide Resolution

No.5563 on 18 August 2005. In my view therefore, it would be appropriate to direct absorption of Respondents from the date on which the Petitioner-PCMC adopted first Resolution No. 5563 on 18 August 2005 without granting any backwages to the concerned Respondents. Once Respondents are treated as regular Municipal servants with effect from 18 August 2005, in respect of 20 workers, who have unfortunately passed away during pendency of litigation, their heirs would be in a position to receive at least pensionary benefits from the dates of their respective deaths. It is however clarified that the directions for absorption are being given considering the unique facts and circumstances of the case, not because of Respondents' continuation in services for long time (mainly owing to interim orders), but because the Municipal Corporation repeatedly resolved to absorb them in service. The directions therefore shall not be read to mean that in every case, mere continuation in service for a long time would entitle temporary or contract employees the benefit of absorption.

57 I accordingly proceed to pass the following order:

ORDER

- i) Order dated 22 November 2002 passed by Industrial Court on preliminary issue in Complaint (ULP) No.139 of 1999 is upheld and Writ Petition No.4931 of 2003 is dismissed.
- ii) Judgment and order dated 30 January 2023 passed by Industrial Court in Complaint (ULP) No.139 of 1999 is modified to the extent that the concerned persons included in the list filed alongwith the

Complaint shall be deemed to have been absorbed in Municipal service and made permanent with effect from 18 August 2005, which is the date of first Resolution adopted by the General Body of the Petitioner-PCMC.

iii) Respondents shall however not be entitled to any backwages arising out of benefit of absorption in service and permanency with effect from 18 August 2005. Their service from 18 August 2005 onwards shall however be treated as regular service for all other purposes, except for backwages.

iv) In respect of Complainants who have passed away during pendency of proceedings, their cases be processed for payment of pensionary benefits by treating them as having absorbed in service from 18 August 2005.

v) In respect of those Complainants who still continue to remain in service, they shall be paid wages in regular pay scales on the absorbed posts with effect from Industrial Court's order dated 30 January 2023.

vi) The arrears arising out of pay and pension to the concerned Complainants shall be paid within a period of four months.

58 With the above Writ Petition No.1860 of 2024 stands partly allowed. Rule in Writ Petition No.4931 of 2003 is discharged and Rule in Writ Petition No.1860 of 2024 is partly made absolute. There shall be no order as to costs.

59 In view of the disposal of Writ Petitions, nothing would survive in the Interim Application, the same is also accordingly disposed of

(SANDEEP V. MARNE, J.)

60 After the judgment is pronounced, Mr. Kumbhakoni, the learned Senior Advocate would pray for stay of the judgment for a period of eight weeks. The learned counsel appearing for Respondents fairly makes a statement that the proceedings filed for execution of the judgment and order dated 30 January 2023 passed in Complaint (ULP) No.139 of 1999 shall not be pressed by the Respondents for a period of eight weeks. In my view this arrangement would sufficiently protect the interest of Petitioner-PCMC. In that view of the matter it is not necessary to separately pass an order staying the present judgment and order.

(SANDEEP V. MARNE, J.)

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