

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

WRIT PETITION NO. 13903 OF 2024

Kishor Rajaram Aher And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary Dept. of Public
Health Officer And Ors. ...Respondents

WITH

WRIT PETITION NO. 13904 OF 2024

Swapnil Shivaji Borhade And Ors. ..Petitioners

Versus

The State Of Maharashtra
Thr. The Sec. Dept of Public
Health Officer And Ors. ...Respondents

WITH

WRIT PETITION NO. 13905 OF 2024

Jeetendra Ashok Tonpe ...Petitioner

Versus

The State Of Maharashtra
Thr.. Its Sec. Dept Of Public
Health Officer And Ors. ...Respondents

WITH

WRIT PETITION NO. 13906 OF 2024

Prashant Madhukar Jadhav ...Petitioner

Versus

The State Of Maharashtra
Thr. Its Secretary And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13907 OF 2024**

Ramesh Ramdas Nadekar ...Petitioner

Versus

The State Of Maharashtra
Thr. Its Secretary Dept. Of Public
Health Officer And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13908 OF 2024**

Dattatraya Appa Pawar & Anr. ...Petitioners

Versus

The State Of Maharashtra
Thr. The Sec. Dept Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13918 OF 2024**

Rajesh Ramchandra Guhagarkar And Ors. ...Petitioners

Versus

The State Of Maharashtra Thr.
The Secretary Department Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13920 OF 2024**

Sagar Pandurang Ganekar And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary, Dept. Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13923 OF 2024**

Vinod Sadanand Palkar And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr Its Secretary, Dept. Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13924 OF 2024**

Dilip Shivaji Devghare ...Petitioner

Versus

The State Of Maharashtra
Thr. The Sec. Dept Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13925 OF 2024**

Rajesh Dinkar Deshmukh And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary Department Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13926 OF 2024**

Amol Shankar Mhatre And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. The Sec. Dept Of Public
Health Dept And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13927 OF 2024**

Lalit Dilip Beldar And Anr. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary Ministry Of
Health & Family Welfare And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13928 OF 2024**

Umesh Ramesh Yelve And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. The Secretary ...Respondents

**WITH
WRIT PETITION NO. 13936 OF 2024**

Inaytulla Ismail Mulla And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary Department Of Public
Health And Ors. ...Respondents

**WITH
WRIT PETITION NO. 13937 OF 2024**

Nivas Sakharam Panaskar And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. The Sec. Dept Of Public
Health And Ors. ...Respondents

WITH
WRIT PETITION NO. 13938 OF 2024

Vikas Vasant Aher ...Petitioner

Versus

The State Of Maharashtra
Thr. Its Sec. Dept Of Public
Health And Ors. ...Respondent

WITH
WRIT PETITION NO. 13939 OF 2024

Santosh Sitaram Pawar And Anr. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Secretary Department Of Public
Health And Ors. ...Respondents

WITH
WRIT PETITION NO. 13940 OF 2024

Harshad Jaywant Gholap And Ors. ...Petitioners

Versus

The State Of Maharashtra
Thr. Its Sec. Ministry Of Health & Family
Welfare And Ors. ...Respondents

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Mr. Pramod A. Kulkarni, Advocate for the Petitioners in all
Petitions.

Mr. S.H. Kankal, AGP, for Respondent – State in
WP/13924/2024.

Ms. Pooja Joshi, AGP for Respondent – State in WP/13925/2024.

Mr. Aaditya Deolekar, AGP, for Respondent – State in

WP/13926/2024.

Mr. A.K. Naik, AGP, for Respondent – State in WP/13927/2024.

Mr. V.G. Badgajar, AGP, for Respondent – State in WP/13928/2024.

Mr. V.M. Mali, AGP, for Respondent – State in WP/13936/2024.

Mr. M.M. Pabale, AGP, for Respondent – State in WP/13937/2024.

Ms. R.A. Salunkhe, AGP, for Respondent – State in WP/13938/2024.

Mr. S.B. Kalel, AGP, for Respondent – State in WP/13940/2024.

Ms. A.A. Purav, AGP, for Respondent – State in WP/13939/2024.

Mr. Ashwin R. Kapadnis, Advocate for the Respondent Nos.4 and 5.

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**CORAM : RAVINDRA V. GHUGE
&
M.M. SATHAYE, JJ.**

DATE :- 9th OCTOBER, 2024

Per Court :-

1. All the Petitioners in these Petitions, are identically placed with the Petitioners who are covered by the order of this Court dated 30th August, 2024 delivered at Aurangabad in Writ Petition No.1913 of 2024, by which, all the Petitions were partly allowed (Navnath Bhaskar Dive and Anr. vs. State of

Maharashtra and Ors.).

2. This Court has passed an extensive order on 30th August, 2024 in Navnath Bhaskar Dive (supra). The reasons and conclusions set out in the said order are squarely applicable to these Petitioners. The learned Advocate for the Zilla Parishad has graciously taken instructions on Advocate's notice and is instructed to say that all these Petitions are covered by the order dated 30th August, 2024.

3. In our order passed in Navnath Dive (supra), we had recorded in paragraph 21 as under :-

*“21. In view of the above, **all these Writ Petitions are partly allowed**, with following directions :-*

- (a) The service conditions applicable to these Petitioners would be maintained as long as the scheme lasts.*
- (b) The contractual employees shall not be replaced by new contractual employees, either by the Contractor or by the Principal employer. These directions of not to be replaced with another contractual employee, would be restricted only to the contractual working of such Drivers, and in the event of any misconduct/misdemeanor/death of the employee or any such reasons, the Principal Employer/the Contractor would be at liberty to*

seek services of new Ambulance Drivers. If there are certain contractual Ambulance Drivers, who have earlier worked, and are not engaged as on date, preference may be granted to them, if any replacement is to be effected.

- (c) *Considering the grave and serious complaints about Contractors not paying the wages to these Petitioners on the principle laid down by the Hon'ble Supreme Court in Ashok Dhondiba Meher (supra), we deem it appropriate to direct the Principal Employer to directly make the payments of these contractual Ambulance Drivers, vide Bank transactions in their salary Bank Accounts. Such payment shall not be a ground for alleging that the contract is sham and bogus and no employer/employee relationship would be deemed to be established between such Ambulance Drivers vis-a-vis the Zilla Parishad or the Principal Employer.*
- (d) *If any of the contractual Ambulance Drivers have been terminated or disengaged, they are at liberty to raise an industrial dispute under the provisions of the Industrial Disputes Act, 1947 and carry a reference to the Industrial Tribunal/Labour Court, as the case may be, in the light of the law laid down in **Vividh Kamgar Sabha vs. Kalyani Steels Ltd. And Anr.**, [2001 (2) SCC 381]; **Cipla Ltd. Vs. Maharashtra General Kamgar Union and Ors.**, [2001 (3) SCC 101] and the judgment of the Hon'ble Supreme Court (5 Judges Bench) in **Steel Authority of India Ltd. and Others Vs. National Union Water Front Workers and Others**, dated 30/08/2001, reported in [AIR 2001 SC 3527].*
- (e) *The conclusions of this Court in **Dhiraj Sudhakar Rao Wankhede (supra)**, which have been sustained by the Hon'ble Supreme Court, would not come in way of the State Government in*

*framing a scheme in view of the judgment of the Hon'ble Supreme Court in **Secretary, State of Karnataka v/s Umadevi (supra)**, if so desired by the State Government.*

- (f) *Since we have directed the Zilla Parishads or the State Government or the Rugna Kalyan Samiti (Medical Board), as the case may be, to directly pay the salaries to these contractual employees, it would be within the domain of the Principal Employer, to adjust these amounts as against the bills of the Contractors and also by adjusting the service charges.*

3. In view of the above, **all these Writ Petitions are partly allowed** in terms of the above reproduced directions. However, it needs mention that this order would apply prospectively.

(M.M. SATHAYE, J.) (RAVINDRA V. GHUGE, J.)