

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2273 OF 2024

Semanti Bose

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Saroj Jadhav i/b Ms. Aarti Ranade for the Petitioner.

Mr. Vishal Thadani, Addl. GP a/w Nazia Shaikh, AGP for Respondent No.1/State.

Mr. Prashant Kamble a/w Shivprasad Borade for Respondent Nos. 2 to 4.

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

DATE : 16th OCTOBER, 2024

P.C. :

1. As the hearing in this matter progress to some length, we are informed by the learned Advocate representing the Corporation, on instructions, that the outstanding payment to the Petitioner for the maternity leave period is being shortly cleared and the payment would be made.

2. With regard to the contentions of the Corporation as regards the suppression of pregnancy of the Petitioner at the very juncture of joining duties on 30.11.2023, we are not dealing with the said aspect though, it would be an appropriate conduct on the part of any lady taking

up a fresh employment, to disclose that she is pregnant, if that be the situation at the time of joining duty.

3. The learned Advocate for the Petitioner has placed before us a cyclostyle copy of the undertaking which the Corporation desires to be executed by the Petitioner. The same is marked as 'X' for identification. The Petitioner takes exception to clause (7) which indicates that because her appointment is on purely contractual basis, she would not approach any Court of law.

4. Needless to state, such a clause would amount to contracting out and would not be enforceable in the light of Section 28 of the Contract Act, 1872. As such, by recording that Clause 7 would not be binding on the Petitioner and/or any employee of the Corporation in similar circumstances, we permit the Petitioner to execute the said contract.

5. In view of the above, **this Writ Petition is disposed off.**

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)