



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5916 OF 2024

(Ku. Leena Ramdas Burade and others vs. The State of Maharashtra and another)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. N.A.Chawhan, Advocate for the petitioners.

Mr. S.M.Ukey, Additional Government Pleader for the respondent
Nos.1 and 2.

CORAM : BHARATI DANGRE AND ABHAY J. MANTRI, JJ.

DATE : OCTOBER 09, 2024

1) The Counsel representing the petitioners has placed reliance upon the judgment delivered by the Division Bench at Aurangabad in case of ***Jayashree Vishwanath Bhale and others vs. The State of Maharashtra, through Secretary, Women and Child Development Department, Mantralaya, Mumbai and others*** [Writ Petition No.11009/2021 decided on 30/08/2022] in relation to implementation of the Integrated Child Protection Scheme by the Central Government, in partnership with the State Government for prevention of child rights violation.

The Learned Counsel would specifically urge that though the Scheme in relation to which the dispute pertain in the writ petition filed by ***Jayashree Bhale*** (supra) was a distinct Scheme, but it was also implemented by the Central Government in partnership with the State Government for a distinct purpose, but the point involved as to whether contractual employees can be replaced by another set of contractual employees, was the issue which was dealt by the Division Bench.

In case of those petitioners who were terminated, reliance was placed upon the decision of the Apex Court in the case of ***Mohd.Abdul Kadir and another vs. Director General of Police, Assam and others***, reported in **(2009) 6 SCC 611**, where it was categorically held that the process of termination and reappointment every year should be avoided and the candidates should be continued as long as the scheme continues, their appointment being co-terminus with the scheme.

Further reliance was also placed upon another decision of the Apex Court in the case of ***Mukesh Gupta vs. President Jan Bhagidari Samiti*** [Civil Appeal Nos.3084-3088 of 2022 decided on 21/04/2022] where the Apex Court once again reiterated the principle that an adhoc employee cannot be replaced by another adhoc employee and he can be replaced only by a candidate who is regularly appointed by following the regular procedure prescribed.

2) It being trite position of law being settled through various authoritative pronouncements of the Higher Courts of this Country, we see no difficulty in considering the relief prayed in the petition, to the effect that the petitioners shall continue on their respective posts, in the "One Stop Center under Mission Shakti Scheme" being implemented at District levels, for helping and assisting the women under social and family crisis situation, by another set of adhoc employees and they shall be continued in the employment till the Scheme continues or till they attain the age of superannuation, whichever occurs earlier.

An exception to the aforesaid stipulation being, to put to an end services of the petitioners on account of unsatisfactory performance, misconduct, medical unfitness, etc.

as the learned Additional Government Pleader has made a guarded statement that the respondent State shall not replace the petitioners with another set of adhoc employees, but their continuation shall be subject to the regular appraisal and we accept the said statement being hedged with their appraisal.

3) In the wake of the aforesaid statement made on behalf of the Additional Government Pleader in respect of all the petitioners which include one paramedical as indicated in the communication dated 05/10/2024, the petition is made absolute in terms of prayer clause (D).

No order as to costs.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)

KOLHE