



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 10712 OF 2024
IN
REVIEW APPLICATION (STAMP) NO.26387 OF 2024
WITH
REVIEW APPLICATION (STAMP) NO.26387 OF 2024**

**THE STATE OF MAHARASHTRA THR THE SECRETARY
MEDICAL EDUCATION AND DRUGS DEPARTMENT
MANTRALAYA**

**VERSUS
ARJUN NIVRUTTI PACHE**

...
Shri P.K. Lakhotiya, AGP for the Applicant/State.
Ms. Preeti Wankhede, Advocate for the Respondent.
...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 20th March, 2025

Per Court :-

(a) Civil Application No.10712/2024:-

1. By this Civil Application, the State prays for condonation of delay of 314 days caused in filing the Review Application in Writ Petition No.11801/2022, with reference to the judgment and order dated 10.10.2023.
2. Heard the learned Advocates for the respective sides.

3. The learned Advocate for the Respondent has vehemently opposed this application and prays for rejection of the same with heavy costs.

4. Considering the law laid down in ***Collector, Land Acquisition, Anantnag v/s Mst.Katiji, AIR 1987 SC 1353*** and ***Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649*** and keeping in view that the delay is not deliberate nor inordinate, **the Civil Application is allowed.**

(b) Review Application (stamp) No.26387/2024

5. With the consent of the parties, the Review Application is registered and heard finally.

6. The grievance of the State is that the impugned judgment dated 10.10.2023, deserves to be recalled and the Writ Petition filed by the State deserves to be allowed for the sole reason that the law laid down by the Honourable Supreme Court in ***Secretary, State of Karnataka and others vs. Umadevi and others, (2006) 4 SCC 1***, permits the State to apply a one time

absorption scheme for regularizing those employees who have completed 10 years or more. Such one time scheme is not to be repeated.

7. We find that the submission of the State would not be sustainable in the light of the facts and circumstances of the case. The law laid down in ***Umadevi (supra)*** was certainly meant for introducing a one time scheme for regularizing the persons who have been working for several years. But, at the same time, the intent in implementing a one time scheme was to absorb all those candidates who have been working for decades and to undo the injustice caused to them. That does not mean that the doors for permitting backdoor entries could be kept open to allow further inflow of such candidates, thereby creating one more pool for such employees who would subsequently complete 10 years and claim absorption. If this is permitted, it would amount to creating a situation when, after the first pool of candidates has been adjusted, another pool would be allowed to complete 10 years.

8. Moreover, this Court has followed the law laid down in ***Municipal Council, Tirora and another Vs. Tulsidas***

Baliram Bindhade, 2016 (6) Mh.L.J.867, Mukhyadhikari, Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao and others, 2015 (5) Mh.L.J. 75 and Municipal Council, Tuljapur vs. Baban Hussain Dhale, Writ Petition No.1843/2015 decided on 26.02.2015. So also, we had relied upon the law laid down by the Honourable Supreme Court in ***Sheo Narain Nagar and others vs. State of Uttar Pradesh and others, AIR 2018 SC 233***, wherein, ***Umadevi (supra)*** was considered and the Honourable Supreme Court recorded in paragraph No.8 as under:-

- “8. *When we consider the prevailing scenario, it is painful to note that the decision in Uma Devi (Supra) has not been properly understood and rather wrongly applied by various State Governments. We have called for the data in the instant case to ensure as to how many employees were working on contract basis or ad-hoc basis or daily-wage basis in different State departments. We can take judicial notice that widely aforesaid practice is being continued. Though this Court has emphasised that incumbents should be appointed on regular basis as per Rules but new devise of making appointment on contract basis has been adopted, employment is offered on daily wage basis etc. in exploitative forms. This situation was not envisaged by Uma Devi (supra). The prime intendment of the decision was that the employment process should be by fair means and not by back door entry and in the available*

pay scale. That spirit of the Uma Devi (supra) has been ignored and conveniently over looked by various State Governments/authorities. We regretfully make the observation that Uma Devi (supra) has not be implemented in its true spirit and has not been followed in its pith and substance. It is being used only as a tool for not regularizing the services of incumbents. They are being continued in service without payment of due salary for which they are entitled on the basis of Article 14, 16 read with Article 34(1) (d) of the Constitution of India as if they have no constitutional protection as envisaged in D.S. Nakara v. Union of India, AIR 1983 SC 130 from cradle to grave. In heydays of life they are serving on exploitative terms with no guarantee of livelihood to be continued and in old age they are going to be destituted, there being no provision for pension, retiral benefits etc. There is clear contravention of constitutional provisions and aspiration of down trodden class. They do have equal rights and to make them equals they require protection and cannot be dealt with arbitrarily. The kind of treatment meted out is not only bad but equally unconstitutional and is denial of rights. We have to strike a balance to really implement the ideology of Uma Devi (supra). Thus, the time has come to stop the situation where Uma Devi (supra) can be permitted to be flouted, whereas, this Court has interdicted such employment way back in the year 2006. The employment cannot be on exploitative terms, whereas Uma Devi (supra) laid down that there should not be back door entry and every post should be filled by regular employment, but a new device has been adopted for making appointment on payment of paltry system on contract/ad hoc basis or otherwise. This kind of action is not permissible, when we consider the pith and

substance of true spirit in Uma Devi (supra). ”

9. So also, Writ Petition No.10793/2022 preferred by the ***State of Maharashtra and others vs. Mayavati Ramchandra Sawant and others***, has been dismissed at the Principal Seat vide judgment dated 28.02.2025.

10. Be that as it may, the learned AGP brings to our notice, on the basis of the record, that vide the Government Resolution dated 07.12.2015, identically situated 626 employees, who were working in Mumbai, Pune, Nagpur and Sangli regions, were absorbed by the State Government.

11. We fail to understand as to why the State Government has not absorbed all identically placed daily wagers, keeping in view the law laid down in ***Umadevi (supra)***. Moreover, recently, the Honourable Supreme Court has delivered the judgment in ***Jaggo vs. Union of India and others, 2024 INSC 1034*** wherein, it has been held that if daily wagers are working for years together and if the nature of work performed is of a perennial character and if such workers are required to carry out such functions, regularization cannot be deprived or denied

since it the responsibility of the State to avoid exploitation of daily wagers.

12. In view of the above, we do not find that the State has succeeded in pointing out any error apparent on the face of the order sought to be reviewed. **The Review Application is dismissed.**

13. We are informed that the original Applicant before the Tribunal who was the Respondent in the Writ Petition before us, has already been absorbed and regularized. The clause mentioning that such absorption would be subject to the pendency of the Review Petition would, therefore, stand neutralized.

kps (Y. G. KHOBRADE, J.) (RAVINDRA V. GHUGE, J.)