

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

WRIT PETITION NO. 6693 OF 2023

1. Namdeo Tukaram Dhonnar.
2. Ravindra Bhau Wakh.
3. Machindranath Dadu Katware. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Thane-422002.
3. The Addl. Commissioner,
Tribal Development, Thane Region,
District Thane.
4. The Project Director,
Integrated Tribal Development
Project, Dist : Thane. ... Respondents.

**WITH
WRIT PETITION NO. 7862 OF 2023**

1. Sanjay Dhavali Ranada.
2. Ramesh Wagh.
3. Mahesh Bhadange.
4. Ramdas Krushna Gavit.
5. Prashant Vasant Kamadi.
6. Madhukar Ananda Maule.
7. Avinash Kevaji Thorat.
8. Suresh Janu Baraf.

9. Krunal Sakharam Bhoys.
10. Arun Raghunath Kinar.
11. Mangesh Gangaram Dehekar.
12. Ravindra Parshuram Waghmare.
13. Nitin Ramu Janathe.
14. Ganesh Ramdas Kurbude.
15. Jayshri Hari Baraf.
16. Pradip Suresh Bhoys.
17. Prabhavati Prabhakar Kharivale.
18. Bharati Dattatray Dhondmare.
19. Hiranman Gangaram Bhasme.
21. Bharat Savji Dhamoda.
22. Bhaskar Rama Pardhi.

... Petitioners

Versus

1. The State of Maharashtra
Through its Principal Secretary
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Nashik -422002.
3. The Addl. Commissioner,
Tribal Development, Thane Region,
Palghar.
4. The Addl. Commissioner,
Tribal Development, Thane Region,
Thane.
5. The Project Officer,
Integrated Tribal Development
Project, Shahapur, Dist : Palghar.
6. The Project Officer,
Integrated Tribal Development
Project, Jawahar, Dist : Thane.

... Respondents.

WITH

WRIT PETITION NO. 4369 OF 2024

1. Rajaram Tukaram Padekar.
2. Devidas Gopal Chavan.
3. Sunanda Laxman Khutade.
4. Durga Ramu Nisal.
5. Vaishali Vishnu Gavit.
6. Dnyaneshwar Jatiya Jangli.
7. Vasant Deu Dekhane.
8. Bhagwan Kashiram Moule.
9. Bharat Devidas Ambhore.
10. Bharati Keshav Bhoir.
11. Rama Narayan Bhagat.
12. Sunita Ladku Meghavale.
13. Ravindra Shripat Jadhav.
14. Sachin Gopinath Bhoir.
15. Bharat Ramu Gavit. ... Petitioners.

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development.
3. The Addl. Commissioner,
Tribal Development.
4. The Addl. Commissioner,
Tribal Development.
5. The Project Officer, Integrated
Tribal Development Project.
6. The Project Officer, Integrated
Tribal Development Project. ... Respondents.

WITH

WRIT PETITION NO. 4384 OF 2024

1. Gajanan Ganpat Asawale.
2. Zampu Maruti Lande.
3. Mangesh Maruti Thokal.
4. Mangesh Motiram Hemade.
5. Mogha Hona Borhade.
6. Gangubai Chandrakant Bhoir.
7. Machhindra Vitthal Paradhi.
8. Rohidas Mahadu Lohakare.
9. Surekha Vasant Jathar.
10. Baburao Sakharam Ambawane.
11. Vanita Dnyaneshwar Viranak.
12. Chaya Santosh Bharmal.
13. Vanita Dnyaneshwar Viranak.
14. Rekha Soma Domase.
15. Chaya Santosh Bharmal.
16. Savita Dnyandev Vaje.
17. Anusaya Bhima Balchim.
18. Megha Gulab Borhade.
19. Mangal Bhau Ravte.
20. Sunita Machhindra Waghmare.
21. Santosh Laxman Moremare.
22. Bhorabai Ravindra Walkoli.
23. Vimal Sanjay Savale.

... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development,
Thane.
3. The Addl. Commissioner,
Tribal Development, Pune Region,
Thane.
4. The Project Director,

Integrated Tribal Development
Project, Ghodegaon, Tq.Ambegaon
Dist : Pune.

... Respondents.

**WITH
WRIT PETITION NO. 4383 OF 2023**

1. Kiran Gangaram Bujad.
2. Naresh Suresh Gorkhana.
3. Poonam d/o Vasant Chabake.
4. Madhuri Shankar Dhamoda.
5. Pratibha d/o Dhiraj Dambhane.
6. Nilima w/o Parsu Dandekar @
Nilima d/o Vaibhav Bheskar.
7. Devram Gopal Hiram.
8. Dipak Govind Khodaka.
9. Appa Kanho Pokala.
10. Prakash Namdev Shende.
11. Gajanan Mangal Bhala.

... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Nehru Nagar,
Ambika Nagar 3, Palghar west,
Thane 400080.
3. The Addl. Commissioner,
Tribal Development, Nehru Nagar,
Ambika Nagar 3, Palghar west,
Thane. 400080.
4. The Project Director,
Integrated Tribal Development
Project, Shahapur,
Dist : Thane.

... Respondents.

**WITH
WRIT PETITION NO. 4385 OF 2023**

1. Govind Dagdu Karbhal.
2. Manohar Dadu Shende.
3. Ramesh Harichandra Dhas.
4. Gaurav Abaji Gholap.
5. Suresh Budha Shende.
6. Ramesh Dattatray Harane.
7. Sagar Sudam Ghanghav.
8. Vaishali Vitthal Dinkar. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development,
Nehru Nagar, Ambika Nagar 3,
Palghar west, Thane-400080.
3. The Addl. Commissioner,
Tribal Development, Nehru Nagar,
Ambika Nagar 3, Palghar West,
Thane 400080.
4. The Project Director,
Integrated Tribal Development
Project, Dahanu,
Dist : Palghar ... Respondents.

**WITH
WRIT PETITION NO. 9463 OF 2023**

1. Dipak Shivdas Pawar
2. Bhila Namdev Bhairam.

3. Chaitram s/o. Nevajya Pawara.
4. Hira s/o.. Amarsing Pawara.
5. Tukaram s/o. Shildar Pawara.
6. Sanosh s/o. Kashinath Bihrade.
7. Jarinabai Viju Gavit.
8. Raju Dagdu Chaudhri.
9. Dongribai Jagram Chaure. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road,
Nashik 422002.
3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
4. The Project Director,
Integrated Tribal Development
Project, Dhule, Dist : Dhule. ... Respondents.

**WITH
WRIT PETITION NO. 9465 OF 2023**

1. Dipali Pandurang Marathe.
2. Rahul s/o. Suresh Marathe.
3. Mahendra s/o. Ranchhod Chaudhari.
4. Smt. Kavita Babulal Thakare.
5. Smt. Kavita Suresh Gurav.
6. Narayan Kashikram Patil.
7. Sharad s/o. Supa Valvi.
8. Padvi Dupendransing Mahendrasing.
9. Vilas s/o. Homa Padvi.

10. Jitendra s/o. Navasha Valvi.
11. Sanjiv s/o. Sudam Padvi.
12. Pratapsing s/o. Swarupsing Padvi.
13. Kisan s/o. Supada Vasave.
14. Mangesh s/o. Jaysing Valvi.
15. Shailesh s/o. Vasant Marathe.
16. Amol s/o. Jagannath Chaudhari.
17. Nirmala s/o. Rajya Padvi.
18. Batesing s/o. Barkya Padvi.
19. Chhagan s/o. Saravarsing Valvi.
20. Jaspal s/o. Udesing Padavi.
21. Suresh s/o. Asamu Pradhan.
22. Vanta s/o. Bhima Paradke.
23. Usha d/o. Kagda Tadvi/Ushabai
d/o. Devsing Valvi.

... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road,
Nashik 422002.
3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
4. The Project Director,
Integrated Tribal Development
Project, Taloda, Dist : Nandurbar.

... Respondents.

**WITH
WRIT PETITION NO. 12236 OF 2023**

1. Mahesh Anil Bhavare

2. Nilesh Subhash Chaure
3. Mahalu Ganesha Gangrale
4. Anil Zipa Chaure
5. Kailas Dhakalya Bagul
6. Sarla Ramesh Suryawanshi
7. Geeta Chhagan Raut
8. Mangla Vasant Kuwar
9. Avinash Bapu Raut
10. Poonam Subhash Chaudhari,
11. Prakash Gopichand Suryavanshi
12. Chotiram Rtilal Sabale
13. Sumitra Tanaji Shinde
14. Savita Nangya Raul
15. Pravin Bhavasing Padavi
16. Rajeshri Shiva Bagul
17. Vimal Vishram Chaure
18. Jyoti Bapu Kokni
19. Pushpa Shantaram Chaudhary
20. Karji Ramesh Rajput
21. Jijabai Shravan Suryawanshi
22. Vithabai Murlidhar Chaure
23. Leela Fulsing Gavli
24. Meena Manoj Pawar,
25. Arun Sukhdev Chitte
26. Yashwant Chunnilal Gavit
27. Rajya Ukhdy Kuwar
28. Vantibai Ratan Kuwar
29. Yashoda Bhatu Chaudhary
30. Vinayak Nurya Valvi
31. Sangeeta Bhatu Gangurde
32. Mangala Gimba Kuwar
33. Sunita Sama Kuwar
34. Lalman Naval Pawar
35. Chhotiram Rajaram Sable
36. Sunil Rama Raut
37. Bhanumati Jema Gavit
38. Thagubai Dilip Patil
39. Asha Tukaram Gawli
40. Kalpana Bhatu Suryawanshi
41. Shantilal Subhash Suryawanshi. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
 2. The Commissioner,
Tribal Development, Ground floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road,
Nashik 422002.
 3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
 4. The Project Director,
Integrated Tribal Development
Project, Dhule, Dist : Dhule.
- ... Respondents.

**WITH
WRIT PETITION NO. 12241 OF 2023**

Renuka Prakash Sonawane.
Age : 34 years, Occ: Primary Teacher,
R/o. Flat No. 11, Kanchan Sankul,
Near Kalyani Apartment, Chetna Nagar,
Rane Nagar, Nashik.

... Petitioner.

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032]
2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

3. The Addl. Commissioner,
Tribal Development, Nashik Region,
Nashik.
4. The Project Director,
Integrated Tribal Development
Project, Yawal, Dist : Jalgaon. ... Respondents.

**WITH
WRIT PETITION NO. 12244 OF 2023**

1. Madhuri Dhanraj Nikam
2. Dharasing s/o. Raysing Vasave
3. Javharsing s/o. Makata Valvi
4. Sunanda Vanya Vasave
5. Bharti d/o. Keshavrao Chavan
6. Laxman Vijay Pawara
7. Anil s/o Velji Valvi
8. Pida s/o. Lotya Pawara
9. Rika w/o Bharat Padvi
10. Dinesh s/o Balsing Pawara
11. Dilwar s/o. Shivaji Pawara
12. Sevi D/o Sega Valvi
13. Pasha s/o. Khojlya Padavi
14. Mangalsing s/o. Dhemashya Valvi
15. Suresh s/o. Doharya Padvi
16. Ishwar s/o Bamnya Padvi
17. Bhaskar s/o Yashwant Chitte
18. Zinal Devidas Gavit
19. Dilwarsing Shivanya Pawara
20. Vashila Gulab Gavit
21. Anil s/o Ugalal Pawar
22. Ranjana Nura Valvi
23. Sandip s/o. Gokul Patil
24. Rajdhan s/o. Ramdhan Dhundale
25. Pawan Ashok Pardhi
26. Pranjali w/o. Amit Thakre
27. Nashiba Chandkha Tadavi
28. Tanuja Baldar Tadv
29. Prakash s/o Rajnish Jadhav

30. Bharat Pandit Pawar
31. Shubham Satish Gangrde
32. Umesh s/o. Ravindra Thakre. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Nashik -422002.
3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
4. The Project Officer,
Integrated Tribal Development
Project, Taloda, Tq. Nandurbar,
Dist : Nandurbar.
5. The Project Officer,
Integrated Tribal Development
Project, Nandurbar, Dist : Nandurbar.
6. The Project Officer,
Integrated Tribal Development
Project, Yaval, Dist : Jalgaon.
7. The Project Officer,
Integrated Tribal Development
Project, Dhule, Dist : Dhule. ... Respondents.

**WITH
WRIT PETITION NO. 12247 OF 2023**

1. Pooja Dinesh Pagar.

2. Ritesh Tanaji Thakur
 3. Dilip Bava Patle
 4. Ambaji Pajkya Valvi
- ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032
 2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Nashik -422002.
 3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
 4. The Project Officer,
Integrated Tribal Development
Project, Taloda, Dist : Nandurbar.
- ... Respondents.

**WITH
WRIT PETITION NO. 12249 OF 2023**

1. Ajay Sama Valvi.
2. Khemsing Garadya Valavi.
3. Vijay Jalama Vasave.
4. Sunil Kalla Vasave.
5. Rajnish Jaysing Vasave.
6. Manish Ishwar Valvi.
7. Raysing Karamsing Padvi.
8. Smt. Punam Ramchandra Bagale.
9. Vilas Ratansing Padvi.
10. Smt. Ramila Birabya Tadvi.
11. Smt. Varsha Amrut Vasave.
12. Jayprakash Dharamsing Valvi.
13. Durgabai Kantilal Valvi.
14. Narsing Ditya Padvi.

15. Babusing Bonda Patle.
 16. Mamta Rama Padvi.
 17. Nirmala Surjya Pawar.
 18. Devendra Chandraknat Pawara.
 19. Gunvanti Dutya Padvi.
 20. Priyanka Mansing Pawara.
 21. Kisan Pavajya Pawara.
 22. Ganesh Maharya Pawara.
 23. Sanjay Ojarya Pawara.
 24. Kavita Bhamta Pawara.
 25. Anil Magan Padvi.
 26. Smt. Meena Gunjarya Pawara.
 27. Yuwraj Amarsing Vasave.
 28. Kailash Fulsing Valvi.
 29. Shiledar Jujrya Pawara.
 30. Karamsing Ditya Valvi.
 31. Samadhan Chudaman Patil.
 32. Leela Mirya Valvi.
 33. Dilip Furta Valvi.
 34. Bhikaji Semtya Vasave.
 35. Babita Shivaji Gavit.
 36. Lalita Devji Tadv.
 37. Bharatsing s/o. Sardar Pawara.
 38. Arvind s/o. Khatrya Padvi.
 39. Hitesh s/o. Gunvant Suryavanshi.
 40. Sunil s/o. Rohidas Vadvi.
 41. Subhash s/o. Tersing Pawara.
 42. Bharat s/o. Wamansing Pawara.
 43. Yogesh s/o. Chhagan Vasave.
 44. Bharat s/o. Malsingh Valvi.
 45. Chanda Amol Ahire.
 46. Subhash Vijay Rahase.
 47. Tapsing Fhulya Padvi.
- ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.

2. The Commissioner,
Tribal Development, Ground floor,
Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road,
Nashik 422002.
3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
4. The Project Director,
Integrated Tribal Development
Project, Taloda, Dist : Nandurbar. ... Respondents.

**WITH
WRIT PETITION NO. 12254 OF 2023**

1. Babusing Bonda Patle.
2. Magan Parta Tadv.
3. Olya Khojlya Valvi.
4. Radhika Bhagavan Sonar.
5. Madhuri Ramchandra Valvi.
6. Seema Rupsing Padvi.
7. Anil Damnya Pawara.
8. Yashwant Gimba Tadv.
9. Hitesh s/o Gunant Suryavanshi.
10. Subhash s/o. Tersing Pawara.
11. Bharat s/o Wamansing Pawara.
12. Anil s/o Kandya Padvi.
13. Dilwarsing Selya Tadv. ... Petitioners.

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner,
Tribal Development, Ground Floor,
Adivasi Vikas Bhavan, Gadkari Chowk,

Old Agra Road, Nandurbar-422002.

3. The Addl. Commissioner,
Tribal Development, Nandurbar Region,
District Nandurbar.
4. The Project Director,
Integrated Tribal Development
Project, Dist : Nandurbar. ... Respondents.

**WITH
WRIT PETITION NO. 12255 OF 2023**

1. Eshwar Kisan Rathod.
2. Namdev Tukaram Rathod.
3. Balusingh Surmal Pawara.
4. Dipak Dhondiram Johare.
5. Milind Babulal Mahale.
6. Pratiksha Barsu Bodwade.
7. Rajendra Prakash Gaikwad.
8. Udaysing Rajendrasing Salunke,
9. Shrikant Prakash Baviskar.
10. Dnyaneshwar Arjun Mahajan.
11. Dinesh Dhirsing Rathod.
12. Gokul Madhukar Ugale.
13. Sunita d/o. Dashrath Rathod.
14. Keshav s/o. Tukaram Wagh.
15. Aakash s/o. Shamrao Kapse.
16. Akil s/o. Dilavar Tadvi.
17. Lukman s/o. Rahiman Tadavi,
18. Sameer s/o. Fakira Tadavi. ... Petitioners

Versus

1. The State of Maharashtra
[Through its Principal Secretary]
Tribal Development Department,
Mantralaya, Mumbai 400 032
2. The Commissioner,
Tribal Development, Ground Floor,

Adivasi Vikas Bhavan, Gadkari Chowk,
Old Agra Road, Nashik -422002.

3. The Addl. Commissioner,
Tribal Development, Nashik Region,
District Nashik.
4. The Project Officer,
Integrated Tribal Development
Project, Yaval, Dist : Jalgaon. ... Respondents.

Mr. S.B. Talekar i/b. Talekar & Associates, for the Petitioners.

Mr. N.C. Walimbe, Addl. G.P. with Mr. K.S. Thorat 'B' Panel Advocate
with Mr. V.M. Mali, AGP, with Smt. N.M. Mehra, AGP, with Mr. S.B.
Kalel, AGP, with Ms. S.S. Bhende, AGP, with Smt. P.N. Diwan, AGP, for
Respondent/State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 30th JANUARY, 2025

Judgment (Per Ravindra V. Ghuge, J)

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. All these Petitioners are said to be on identical footing in
so far as their service conditions are concerned. It is also undisputed that
all of them would stand covered by the Judgment delivered by this Court
in *Madhukar s/o Bhavanrao Sadgir & Ors. vs. State of Maharashtra &*

Ors. reported in 2019 (2) Mh. L.J. 119.

3. For the sake of brevity, we deem it appropriate to make a reference to the fact that these Petitioners have been appointed by the concerned Respondent Institutions as Assistant Teachers and/or Class III and Class IV employees in the Post Basic Government Ashram Schools. They were called upon to participate in a selection process and after conducting interviews, they were selected as Assistant Teachers/class III/IV non-teaching staff category.

4. In ***Madhukar Sadgir(Supra)***, this Court has concluded in paragraph Nos. 14 to 22, as under :

“14. In the present case majority of the persons have been appointed prior to ten years and during the pendency of the writ petition some of them have completed ten years. They are regularly working on the said posts on meagre honorarium. The government is expected to be a mo-tel litigant.

15. One needs to keep in mind that these petitioners were appointed as the respondents were not getting Assistant Teachers so also Class-III and Class-IV employees to officiate in the government tribal ashram school run under the Tribal Development Department in the remote tribal areas. The respondents also did not conduct the selection process for all these years. Keeping the petitioners for a long period on honorarium would certainly amount to their exploitation.

16. Exceptional circumstances exist to consider the case of the

petitioners for regularization of atleast those who have completed ten years of service as laid down in the case of Secretary, State of Karnataka and others vs. Umadevi and others (supra).

17. *The following circumstances persuades us to consider the case of the petitioners for regularization of those who have completed ten years in service:*

(1) The posts on which the petitioners are appointed are sanctioned posts.

(2) The work load is available.

(3) The petitioners have agreed to officiate at the time when the respondents were not getting the necessary teaching and non-teaching staff to work in remote tribal areas and more particularly when the means of communication and transportation were scarce.

(4) The respondents have not undertaken selection process for all these years to fill in the posts held by the petitioners.

(5) The petitioners are working continuously for ten years or more on meagre honorarium.

(6) Asking the petitioners to continue to work on meagre honorarium for such a long period would tantamount to their exploitation not expected from the welfare State. The State is expected to be a model litigant.

18. *We have considered the case of only those petitioners who have completed ten years or more in the service.*

19. *The petitioners and the respondents have given the details of the number of years the petitioners have worked. During the pendency of the present writ petition some of the petitioners are terminated from the service. We would not be considering the case of the petitioners who are terminated from the service prior to the completion of ten years. However, those petitioners who have completed ten years of service and in spite of pendency of the writ petition are terminated are required to be reinstated.*

20. *There is not much difference in the chart given by the petitioners and the State with regard to the number of years the petitioners had worked.*

21. *In light of the above, we pass the following order:*

ORDER

(i) The respondents shall regularize the services of the petitioners who have completed ten years of service with effect from

the date they have completed ten years or the date of filing of writ petition whichever is later.

(ii) Those petitioners who are terminated after completion of ten years of service during the pendency of the writ petition shall be reinstated and shall be granted regularization from the date they have filed the petition or after completion of ten years of service whichever is later.

(iii) For all practical purposes the services of the petitioners shall be considered regular from the date as observed above. However, we may not grant them actual financial benefit for the period prior to the present order. They will be entitled for the regular pay scale from 1-11-2018.

(iv) The respondents shall count the services of the petitioners from their date of appointment continuously for counting ten years of their service.

22. We have not considered the cases of those petitioners who have not completed ten years of their service. We leave it to the respondent-State to consider their case on its own merits and as per their policy.”

5. Pursuant to the aforesaid directions, several benches of this Court have passed similar orders in similar matters wherein the Petitioners were employed on identical service conditions. It has been reiterated that those who have worked for 10 years or more would be granted regularisation. Those who have been terminated after completion of 10 years of service, shall be reinstated and shall be granted regularisation. It was also directed that those who have not completed 10 years in employment, will have to wait till they complete the said period and it is thereafter, that they would be entitled for benefits similar to those that have been granted in *Madhukar Sadgir(Supra)*.

6. The learned Advocate Shri Talekar submits that many of the Petitioners have completed 10 years in the employment. We, therefore, record that it would be within the domain of the concerned authorities to verify the tenure of service put in by these Petitioners and only those who have completed 10 years, would be considered for regularisation in the light of the law laid down in *Madhukar Sadgir (Supra)*.

7. Shri Talekar submits that, in addition to the above issue, the Petitioners have raised two grounds. One is as regards the letter dated 25th May, 2023 addressed by the State Government to the Commissioner of Tribal Development and all Additional Commissioners, Tribal Development Divisions and Project Officers of the Integrated Tribal Development Projects, directing them that they would no longer engage such employees. If such work is available, the same would be outsourced through contractors.

8. It cannot be disputed in the light of trite law that any such directive will normally have to operate prospectively. There is no auto applicability with retrospective effect, unless expressly provided. If

the Government has the design to make the said letter applicable with retrospective effect, this issue will have to be considered in a specific challenge to the said letter in a Petition filed for setting up the challenge.

9. On the aspect of outsourcing of employment, this Court (Coram : G.S. Patel & Neela Gokhale, JJ) has already observed in its order dated 9.6.2023, passed in these proceedings. The relevant paragraphs are as under :

“3. The circular in question of 25th May 2023 is at pages 117 to 118 of the Petition. Similar to many such recently issued, it proposes to institute a recruitment process of teachers via outsourcing for Ashram schools for the academic year 2023-24. Apart from the fact that there are decisions of this Court that disapprove of this process of outsourcing, the case of the Petitioners is that there is every likelihood that they will be rendered jobless despite having served for 8 to 10 years. One of the concerns of the Petitioners is that since their dates of appointment, which go back to 2013 for two Petitioners and 2015 for one Petitioner, they have apparently been continued on some ad hoc or contractual basis year on year. This means that they have been engaged to provide teaching services for successive limited periods interspersed with what are known as "technical breaks". We have previously in several judgments and orders disapproved of this practice of engaging teachers for long durations on an ad hoc or contractual basis. The device of 'technical breaks' presents an fruitless counter-argument. The law does not permit this.

4. Another singular grievance by Mr Talekar is that there are long stretches of time for which the Petitioners were asked to work, and which can be evidenced by the respective muster rolls, but for which they received no payment at all.

5. Now, on account of the impugned circular, the Petitioners find

themselves in a situation, according to Mr Talekar, where their entire past record of service will be discounted and by following the outsourcing process, others will be appointed as teachers, thus completely displacing them. For the purposes of ad-interim relief therefore, and on the limited aspect of balance of convenience, we believe there is a sufficient cause to grant an ad-interim stay in terms of prayer clause (D) until the next date of hearing.”

10. As the law stands today, if the Government decides not to engage any such employees in future, the said decision would normally operate prospectively and in no way would create any embargo on the rights of the Petitioners and similarly situated employees, who are already in service for more than 10 years.

11. We need to add that this observation should not be misread or misconstrued to mean that those who have not completed 10 years in the employment, would also be covered for the purposes of claiming continuation or regularisation, since the view taken in Madhukar Sadgir is obviously in the light of the law laid down by the Hon’ble Supreme Court in *Secretary, State of Karnataka and Ors. vs. Umadevi & Ors. reported in 2006 Mh. L.J. Online (S.C.) 36*. The Hon’ble Supreme Court had directed framing of a scheme as a one time measure for absorption of those candidates who have completed 10 years or more. Hence, we would leave open the issue as regards the legality of

the decision of the State not to recruit any such person in future.

12. The learned AGP is instructed to state that each of the Petitioners would be subjected to a verification exercise in the light of the law laid down in *Madhukar Sadgir(supra)* and after assessing the completion of 10 years in service, such cases would be taken up for regularisation. As such, the grievance of the Petitioners who have completed 10 years in the employment, is taken care of.

13. The second and the last limb of Mr. Talekar's submission is as regards those Petitioners having not put in 10 years in employment, who are paid meager amounts, as salaries. We have made observations in paragraph 3 of our order dated 14th November, 2024 wherein we had recorded his prayer that, these Petitions be considered for the purpose of assessing whether they are being paid adequate wages and whether payment of a paltry amount of Rs. 54/- per hour, would be justified.

14. In this context, Shri Talekar has relied upon the Order passed by this Court, to which one of us is a party (Coram: Ravindra V. Ghuge & M.M. Sathaye, JJ) dated 29.11.2024, in *Interim Application No. 1418 of 2024 in Writ Petition No. 13177 of 2023 (Sandip Ganpat*

Hadbal & Ors. vs. The State of Maharashtra & Ors.). In the said Order, we had adverted to various judicial pronouncements of the Hon'ble Supreme Court as well as the High Courts and had recorded in paragraphs 6 to 9, as under :

6. *The learned Advocate for the Petitioners relies upon the following reported judgments :-*

- (i) *Rabinarayan Mohapatra v/s State of Orissa and Others, (1991) 2 SCC 599;*
- (ii) *Chief Conservator of Forests and Another v/s Jagannath Maruti Kondhare and Others, (1996) 2 SCC 293;*
- (iii) *Jaipal and Others v/s State of Haryana and Others, (1988) 3 SCC 354;*
- (iv) *Swabhimani Shikshak Va Shikshaketar Sanghatana Maharashtra Rajya, Nashik and Others v/s The State of Maharashtra and Others, judgment pronounced on 20.09.2022 in Writ Petition No.4300 of 2021 (Aurangabad Bench);*
- (v) *Smt. Kusum Ashok Waghmare v/s The State of Maharashtra and Others, order dated 30.06.2022 in Writ Petition No.1367 of 2022 (Aurangabad Bench);*
- (vi) *Mohini Jain (Miss) v/s State of Karnataka and Others, (1992) 3 SCC 666;*
- (vii) *M.G. Pandke and Others v/s Municipal Council Hinganghat, District Wardha and Others, 1993 Supp (1) SCC 708,*
- (viii) *Narendra Ishulal Rahangdale v/s. State of Maharashtra and Others, 2005 (3) L.L.N. 479;*
- (ix) *State of Maharashtra v/s. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, (2006) 9 SCC 1; and (State of Punjab and Others v/s. Jagjit Singh and Others, (2017) 1 SCC 148.*

7. *In Ashok Dhondiba Meher and others (supra), the Hon'ble Supreme Court has held in paragraph 11, as under :-*

"11. In the above circumstance, it is noticed that in the present facts the only relief granted by the High Court to the private

respondents herein is to be paid the wages at the minimum of the pay-scale at the lowest grade, in the regular pay-scale extended to the regular employees holding the same post. The said benefit ordered to be extended is in tune with the observations of this Court in Jagjit Singh (supra). Further, in the instant facts what cannot be overlooked is also that the private respondents though employed through the contractors are discharging the onerous duties of driving the ambulance which is operated to provide the benefit of public health to the citizens in the PHC's under the Zilla Parishad which in turn is for discharging the obligation of the State. Therefore, in such circumstances, the minimum relief that has been granted by the High Court would not call for interference. We at this juncture also take note of the fact that the judgment dated 20.11.2019 passed by the coordinate bench of the High Court in Dhiraj S. Wankhade (supra), relied upon by the High Court in the instant case had been assailed before this Court in a Special Leave Petition (Civil) bearing Diary No.12195/2020. However, the Special Leave Petition came to be dismissed by this Court on 22.02.2021."

8. *In Rabinarayan Mohapatra (supra), the Hon'ble Supreme Court has held in paragraph 5, as under :-*

"5. We have heard Mrs. Uma Mehta Jain, learned counsel for the appellant. This Court in Rattan Lal V. State of Haryana speaking through Venkataramaiah, J. (as the learned Judge then was) observed as under:

The State Government of Haryana has failed to discharge that duty in these cases. It has been appointing teachers for quite some time on an ad hoc basis for short periods as stated above without any justifiable reason. In some cases the appointments are made for a period of six months only and they are renewed after break of a few days. The number of teachers in the State of Haryana who are thus appointed on such ad hoc basis is very large indeed. If the teachers had been appointed regularly, they would have been entitled to the benefits of summer vacation along with the salary and allowances payable in respect of that period and to all other privileges such

as casual leave, medical leave, maternity leave etc. available to all the Government servants. These benefits are denied to these ad hoc teachers unreasonably on account of this pernicious system of appointment adopted by the State Government. These ad hoc teachers are unnecessarily subjected to an arbitrary 'hiring and firing' policy. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an ad hoc basis with miserable conditions of service. The Government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious repercussions on the education institutions and the children studying there. The policy of 'ad hocism' followed by the State Government for a long period has led to the breach of Article 14 of the Constitution. Such a situation cannot be permitted to last any longer. It is needless to say that the State Government is expected to function as a model employer.

We strongly deprecate the policy of the State Government under which ad hoc' teachers are denied the salary and allowances or the period of the summer vacation by resorting to the fictional breaks of the type referred to above. These 'ad hoc' teachers shall be paid salary and allowances for the period of summer vacation as long as they hold the office under this order. Those who are entitled to maternity or medical leave shall also be granted such leave in accordance with the rules."

9. *In Jagannath Maruti Kondhare and others (supra), it has been held by the Hon'ble Supreme Court, in paragraph nos. 28 and 29, as under :-*

"28. Insofar as the financial strain on State Exchequer is concerned, which submission is sought to be buttressed by Shri Dholakia by stating that in the Forests Department itself the casual employees are about 1.4 lakhs and if all of them were to be regularised and paid at the rate applicable to permanent workmen, the financial involvement would be in the neighbourhood of Rs.300 crores a very high figure indeed.

We have not felt inclined to bear in mind this contention of Shri Dholakia as the same has been brought out almost from the hat. The argument relating to financial burden is one of despair or in terrorem. We have neither been impressed by the first nor frightened by the second inasmuch as we do not intend that the view to be taken by us in these appeals should apply, proprio vigore, to all casual labourers of the Forests Department or any other Department of the Government.

29. We wish to say further that if Shri Bhandare's submission is taken to its logical end, the justification for paying even minimum wages could wither away, leaving any employer, not to speak of model employer like the State, to exploit unemployed persons. To be fair to Shri Bhandare it may, however, be stated that the learned counsel did not extend his submission this far, but we find it difficult to limit the submission of Shri Bhandare to payment of, say fair wages, as distinguished from minimum wages. We have said so, because if a pay scale has been provided for permanent workmen that has been done by the State Government keeping in view its legal obligations and must be one which had been recommended by the State Pay Commission and accepted by the Government. We cannot deny this relief of permanency to the respondent-workmen only because in that case they would be required to be paid wages meant for permanent workers. This right flows automatically from the relief of regularisation to which no objection can reasonably be taken, as already pointed out. We would, however, observe that the relief made available to the respondents is not one which would be available ipso facto to all the casual employees either of the Forests Department or any other Department of the State. Claim of casual employees for permanency or for higher pay shall have to be decided on the merits of their own cases."

15. It is finally concluded in ***Sandip Ganpat Hadbal(supra)***,
in paragraph 10, as under :

"10. In view of the consistent directions of the Hon'ble Supreme

Court in catena of judgments, some of which have been adverted to by us in the foregoing paragraphs, we are of the considered view that it would be just, proper, appropriate and equitable, to direct the authorities who have engaged the Petitioners, to ensure that the minimum pay in the lowest pay grade, inclusive of dearness allowance, payable to the regular/permanent employees, shall be paid to these Petitioners, keeping in view the nature of duties performed by them, which are comparable to those being performed by the regular/permanent employees. These directions, as an interim measure, shall be implemented from the month of December, 2024. We record that the issue of regularisation and arrears of salaries, would be dealt with, when we decide the Writ Petition, finally.”

16. We do not find that these Petitioners, to the extent of payment of commensurate wages, would stand on any different footing vis-a-vis ***Sandip Ganpat Hadbal(supra)***. In the cases in hands, the maximum that is earned by these Petitioners is Rs. 8000/- per month, approximately. In the cases of Contractual Ambulance Drivers and in the case of ***Sandip Hadbal and others(supra)***, this Court had recorded that the minimum pay scale as is available to the regular employees performing the same nature of duties, would be payable to such Petitioners @ the minimum pay in the lowest pay grade including dearness allowance, as is payable to the regular/permanent employees.

17. We do not find that the learned AGP could indicate any distinguishing features and circumstances in these cases, so as to convince us to adopt a different view, than the one consistently taken by

this Court and which is affirmed by the Hon'ble Supreme Court in the cases of Contractual Ambulance Drivers, so also the view taken by this Court in *Sandip Ganpat Hadbal (supra)*.

18. In view of the above, **these Writ Petitions are partly allowed** in the light of the foregoing conclusions and we further direct as under :-

[a] The procedure devised in *Madhukar Sadgir(supra)*, shall be followed by the State Government and appropriate scrutiny shall be carried out with regard to those Petitioners who have completed 10 years of service, within the same time line as was granted in *Madhukar Sadgir(supra)*.

[b] We further direct that the letter issued by the Under Secretary, Maharashtra Government, Tribal Development dated 25th May, 2023 would not be applicable to those who have completed 10 years in service. The issue of retrospective application is left open to be considered in a challenge to the said letter, if posed by any aggrieved litigant in a substantive petition.

[c] Lastly, we direct the State Government to consider all these cases for payment of the minimum pay in the lowest grade inclusive of dearness allowance as is payable to the regular/permanent employees,

notwithstanding whether they have completed 10 years or not.

19. Though Shri Talekar has vehemently prayed for full arrears, the learned AGP has strongly opposed the said argument contending that it would create an enormous financial burden on the State Government. He draws our attention to the view taken in the Judgment delivered by this Court in *Madhukar Sadgir (supra)*, wherein financial benefits were granted from the date of the Judgment.

20. We, therefore, deem it appropriate to grant such financial benefits of arrears of the pay scale as stated above, from the date of the completion of the 10 years in employment. In so far as the Petitioners who have not completed 10 years as on date, as observed by this Court in its order dated 29th November, 2024 in *Sandip Hadbal(supra)*, minimum pay in the lowest pay grade inclusive of dearness allowance, would be available to such employees who have not completed 10 years from the dates of the filing of these Petitions.

21. **Rule is made partly absolute** in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)