



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO.1340 OF 2013**

The Secretary, Village Development and Water Conservation Department, Bombay  
and others **Vs.** Rahul S/o Narayanrao Ujjainkar and others

Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

Mr. S.B. Bissa, A.G.P. for petitioners/State.

Mr. N.R. Shiralkar, Adv. a/w Mr. V.B. Bhise, Adv. for respondent Nos.1, 4 and 5.

**CORAM : ROHIT W. JOSHI, J.**

**DATE : 01/10/2025**

1. The present petition takes exception to the judgment and order dated 01.02.2012, passed by the learned Industrial Court, Maharashtra (Akola Bench), Akola, in Complaint (ULP) No.387 of 1996 (Old No.1098 of 1996), whereby the present petitioner was directed to grant status of permanent and regular employees on present respondent Nos.1 to 5 as per Government Resolution dated 19.10.1996.

2. It is the case of the petitioners that the respondents were working with Social Forestry department which is not an 'Industry' and therefore, the complaint was not maintainable. Apart from this, it is contended that the initial appointment of the said respondents was not through the due process of law and they were appointed merely on daily wages and they were not eligible for regularization of their services. The learned A.G.P. contends that it is a well settled proposition of law that regularization cannot be a

mode of recruitment, which was completely ignored by the learned Industrial Court.

3. *Per contra*, Mr. Shiralkar, learned Advocate for the respondents contends that the respondents were working with the petitioners for an inordinately long period as daily wagers. He contends that for the issue pertaining to the regularization of workers like the respondents, the State Government has made a policy to regularize the services of all employees working on daily wages in Class-IV or Group-D. The Government Resolution provides that the daily wage workers for the purpose of regularization should complete five years of continuous service with a minimum of 240 days of work in each calendar year.

4. Mr. Shiralkar, learned Advocate draws attention to the documents on record particularly at Exhs.45, 46, 47, 63, 64, 65, 66 and 68 to contend that it is duly proved that all the respondents have rendered continuous service of minimum five years with 240 days of work in each calendar year. He therefore contends that the respondent Nos.1 to 5 satisfy the criteria prescribed under the Government Resolution dated 19.10.1996 and as such, are eligible and entitled to the benefit of regularization and permanency with effect from 01.11.1996.

5. Mr. Shiralkar, further points out that the benefit of regularization and permanency is granted to the

respondent Nos.1, 4 and 5 w.e.f. 01.06.2012, however, the benefit under the Government Resolution dated 19.10.1996 is denied to them without any justification. He draws attention to the judgment by the learned Industrial Court where clear finding of fact is recorded as regards eligibility of respondent No.1 to 5 for regularization. The learned Industrial Court has also observed that similar circumstanced daily wage workers who were junior to the respondent Nos.1 to 5 were also granted benefit of Government Resolution dated 19.10.1996.

6. As regards the first contention that the department of Social Forestry is not an Industry, the said issue is pending before the Hon'ble Supreme Court of India. However, this Court has in the matter of *Deputy Director vs.. Vijaya Balbhim Mali*, reported in **AIR Online 2024 BOM 1589**, considered the case of the employees working with social forestry department and has granted them benefit of permanency. While dealing with the pendency of the issue before the Hon'ble Supreme Court regarding the Forest Department being an industry or not, it has been held that the issue is settled so far as this Court is concerned, and that pendency of said issue before the Hon'ble Apex Court should not be a reason to defer the hearing. This Court has referred to the Division Bench judgment in the matter of *Chief Conservator of Forests, Pune (T) & Anr. ..vs.. Janabai Sonaba Sarpale*, reported in **2018 (6) ALL**

**MR 406**, wherein it is held that forest department is an Industry.

7. In view of the aforesaid judgment, the first contention by the learned A.G.P. deserves to be rejected.

8. As regards merits of the matter, the finding recorded by the learned Industrial Court are pure findings of fact, which are duly supported by the documentary evidence referred above. The documents on record clearly establish that the respondent Nos.1 to 5 have worked for more than 240 days in each year continuously for a period of five years and as such, are entitled for the benefit of regularization of service w.e.f. 01.12.1994 as is prescribed by the Government Resolution dated 19.10.1996.

9. The contention by the learned A.G.P. that regularization cannot be a mode of recruitment is based on the Supreme Court in the matter *State of Karnataka and Ors. ..vs.. Umadevi and Ors.*, reported in (2006) 4 SCC 1. However, the said judgment does not prohibit the State from framing scheme for regularization of employees. In that view of the matter, in the considered opinion of this Court no case is made out for interference. Writ petition is **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)