IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4983 OF 2026

Rupali Rajendra Majkuri ...Petitioner

Versus

The State of Maharashtra and Others ...Respondents

Mr. Krishna P. Rodge, (Through V.C.) for the Petitioner.
Mr. Abhijit M. Adagule, for Respondent No.2 – ZP.
Mr. Vikas M. Mali, AGP for the Respondent-State.

CORAM : SHARMILA U. DESHMUKH & NEERAJ P. DHOTE, JJ.

DATE : OCTOBER 08, 2026.

P. C. :

1. By the present Petition, the Petitioner seeks a direction to Respondent No.2, District Health Officer, to grant medical leave to the Petitioner as per her request letter dated 9th June, 2026.

2. The Petitioner is working as a Medical Officer on contract basis at the Primary Health Center, District Kolhapur, and was appointed as Medical Officer at Primary Health Center, Mangaon, on contract basis vide appointment order dated 6th October, 2025, and is discharging her duties at the same place.

3. The Petitioner pleads that her expected date of delivery is 11th October, 2026, and required maternity leave, pursuant to which an

application was made by her on 9th June, 2026, to Respondent No.3, Taluka Health Officer. However, she was orally informed that she is not eligible for maternity leave as she is a contractual employee.

4. Learned counsel appearing for the Petitioner would submit that the Maternity Benefit Act, 1961, ("**the Act of 1961**") would apply to the Petitioner even if she is appointed on contract basis.

5. Learned counsel appearing for the Zilla Parishad would submit that as per the provisions of Section 5 of the Act of 1961, the maximum period for which any woman is entitled to maternity benefit is 26 weeks, of which not more than 8 weeks to precede the date of her expected delivery. He submits that in the present case, the Petitioner states that the expected date of delivery is 11th October, 2026, whereas the Petitioner has already gone on leave on 9th June, 2026. He would further submit that the contract expires on 5th September, 2026, and, in his usual fairness, would tender the decision in the case of ***Dr. Kavita Yadav v. Secretary, Ministry of Health and Family Welfare Department and Others***[1], which would benefit the Petitioner. He would, however, submit that the provisions require that the woman should have worked in the establishment for a period of not less than 80 days, and he still has to verify whether she has completed the period of 80 days.

6. Learned counsel appearing for the Petitioner would submit that

1 **(2024) 1 SCC 421**

though the expected date of delivery was stated in the Petition to be 11th October, 2026, the Petitioner has already delivered and necessary documents to that effect will be produced before Respondent No.2.

7. We have considered the decision in the case of ***Dr. Kavita Yadav v. Secretary, Ministry of Health and Family Welfare Department and Others*** (supra). In that case, the Petitioner was appointed on temporary contract basis for a period of one year, extendable on yearly basis up to maximum of three years, and sought the maternity benefit. The Hon'ble Apex Court considered the provisions of Section 5 of the Act of 1961, and formulated the question in paragraph 6 as to whether the maternity benefits as contemplated in the Act of 1961, would apply to a lady employee appointed on contract if the period for which she claims such benefits overshoots the contractual period. It held that once the applicant fulfilled the entitlement criteria specified in Section 5(2) of the Act of 1961, she would be eligible for full maternity benefits, even if such benefits exceed the duration of her contract.

8. The decision of the Hon'ble Apex Court affirms two propositions that even if the woman was employed on temporary basis, she would be entitled to the maternity benefits under the Act of 1961, and secondly, the entitlement is not restricted by reason of the fact that such benefits would exceed the duration of the contract. The decision squarely applies to the facts of the present case.

9. The provisions of Section 5(3) of the Act of 1961, provide that the maximum period for which any woman would be entitled to maternity benefit shall be 26 weeks, of which not more than 8 weeks shall precede the date of her expected delivery.

10. The Petitioner will produce the necessary documents before Respondent No.2 as regards her date of delivery, and the benefits to be accordingly computed as per Section 5(3) of the Act of 1961.

11. Although it is not verified whether the Petitioner has completed 80 days in the 12 months immediately preceding the date of her expected delivery, in the facts of the present case, we are inclined to allow the Petitioner the benefits of the Act of 1961, which is not to be treated as precedent.

12. Petition is allowed in the above terms.

[NEERAJ P. DHOTE, J.] **[SHARMILA U. DESHMUKH, J.]**