IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13334 OF 2026

Hemangi Girish Bamaniya ...Petitioner
Versus
The State of Maharashtra
Thr. Higher Education and Health
Department and Ors ...Respondents

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Mr Abhinav Dubey, with Mridul Das, Chintan Patel, Jyoti Pujari, Swati Pandey, Rajlaxmi Dubey, for Petitioner.
Ms Nisha M Mehra, AGP for Respondent-State.
Ms Disha Vardhan, with Prajakta Shinde and Diksha Gaikwad, for Respondent Nos. 2 and 3.

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CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 22 OCTOBER 2026

P.C.

1. We have heard learned counsel for the parties.

2. This Writ Petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:-

> "a) Issue an appropriate writ, order or direction, including a Writ of Mandamus, directing the Respondents to consider and grant the Petitioner's application for maternity leave dated 07.08.2026 and the subsequent detailed maternity leave application submitted through post;
>
> b) Declare that the Petitioner is entitled to maternity benefit in accordance with Section 60 of the Code on Social Security, 2020, subject to the applicable statutory conditions;
>
> c) Declare that the letter dated 07.08.2026, wherein Respondent No. 3 unlawfully and coercively compelled the Petitioner to alter the request for maternity leave into

a request to be relieved from duties is void ab initio, illegal, and unenforceable in the eyes of law;"

3. At the outset, we may note that the Petitioner was appointed on a temporary basis by Respondent No.2-S.N.D.T. Women's University *vide* appointment order dated 13th November 2025 in which *vide* clause (1) of the same, it is clearly recorded that the appointment of the Petitioner was made purely on temporary basis on remuneration of Rs.30,000/- p.m. for the academic year 2025-26 w.e.f. 23.06.2025. Further, paragraph 6 of the appointment order records that such appointment would automatically stand canceled on completion of the academic year 2025-26 or once the post is filled by permanent appointment, whichever is earlier. Thus, admittedly, on completion of the academic year 2025-26, the Petitioner was not in employment of Respondent No.2. In fact, the letter dated 6th August 2026 at Exhibit 'C' (page 19 of the Petition) addressed by the Petitioner to Respondent No.2 clearly records that the Petitioner is requesting for issuance of appointment letter for the academic year 2026-27. It is not in dispute that presently, the academic year 2026-27 is in vogue and for such an academic year, insofar as the Petitioner is concerned, she has no contract of any employment in the services of Respondent No.2. It is in these circumstances, when there is no employment, the Petitioner has sought for a maternity leave.

4. At the outset, we are at a loss to understand as to how, when the Petitioner has no subsisting employment with Respondent No.2, can the Petitioner seek a maternity leave, as if there exists a service contract or the employment with Respondent No.2 continues. The issue in fact is

no more *res integra* in view of the recent decision of this Court, of which one of us (G.S.Kulkarni, J.) was a member, in **Somaiya Vidyavihar KJ Somaiya College of Arts and Commerce Vidyavihar, Mumbai & Anr v. The Asst. Commissioner of Labour & Appellate Authority & Ors.**[1] wherein this Court in identical circumstances, considering the decision of the Supreme Court in **Dr Kavita Yadav v. The Secretary, Ministry of Health and Family Welfare Department & Ors**.[2] as also, the decision in **Manisha Priyadarshini v. Aurobindo College-Evening & Ors.**[3] and the provisions of Sections 12 and 5(2) of the Maternity Benefit Act, 1961 (for short the '**Act**'), held that once there was no valid contract of employment, there was no question of any relief similar to the relief as prayed in the present Writ Petition being granted. The relevant observations as made by this Court are required to be noted, which read thus:-

> "15. At the outset, we are conscious of the fact that the present matter concerns the right of a woman employee to claim maternity leave, a benefit which has been statutorily recognised to safeguard the dignity of motherhood and the health and welfare of both the mother and the child. The importance of such a benefit cannot be understated. At the same time, the entitlement to maternity leave must necessarily be examined within the framework of the provisions of the Act, and also the terms and conditions governing the employment of the woman seeking such benefit.
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> 16. In the facts of the present case, we find considerable substance in the submissions advanced by learned counsel on behalf of the Petitioner-College. The maternity leave claimed by Respondent No.3 was sought to be availed after the expiry of her *ad-hoc* contractual tenure. It is an admitted position that Respondent No.3's *ad-hoc* contractual appointment came to an end on 30th April 2024 and was not renewed thereafter. Once that is the admitted factual position, we fail to comprehend in what capacity Respondent No.3 could claim maternity benefits from the Petitioner-College when she admittedly ceased to be its contract employee with effect from 30th April 2024.
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> 17. Section 5(2) of the Act provides that a woman shall be entitled to maternity benefit if she has actually worked in the establishment of the

1 WP No. 4244/2025 decided on 13.7.2026.

2 Civil Appeal No(s). 5010/2023.

3 LPA/595/2019.

employer from whom she claims such benefit for a period of not less than eighty days during the twelve months immediately preceding the date of her expected delivery. While Respondent No.3 may have fulfilled the qualifying requirement of having worked for the prescribed period, the maternity benefit contemplated under the Act is one arising out of and during the subsistence of the employer-employee relationship. In the present case, it is an admitted position that Respondent No.3 delivered the child on 28th June 2024, a date which fell after the expiry of her *ad-hoc* contractual appointment on 30th April 2024. In these circumstances, the benefit of any leave, even the maternity leave could not be claimed from the Petitioner-College after the cessation of her *ad-hoc* contractual tenure. There was even otherwise no employer-employee relationship between the Petitioner-College and Respondent No.3.

18. We also find that the facts of the present case do not attract the provisions of Section 12 of the Act. Respondent No.3 was not dismissed or discharged from service during the period of her pregnancy so as to confer upon her the protection contemplated under the said provision. Her appointment simply came to an end by efflux of time on 30th April 2024, in terms of the conditions governing her *ad-hoc* contractual appointment, and there is no material on record to indicate that the *ad-hoc* contractual tenure was either curtailed or prematurely terminated on account of her pregnancy. For ease of reference the provisions of Section 12 of the Act are reproduced below:

> 12. **Dismissal during absence of pregnancy**.— (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
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> (2)(a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus: Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.
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> [2][(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.]
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> (c) Nothing contained in this sub-section shall affect the provisions contained in sub-section (1).

19. We are also not persuaded by the submission advanced on behalf of Respondent No.3 that an artificial break between 1st May 2023 and 12th June 2023 be presumed and ought to be taken into consideration while

determining her entitlement to maternity benefits. This is misconceived as Respondent No.3 was not granted any appointment after her contractual appointment came to an end on 30 April 2024. Also the issue before us is not the continuity of her service for the purpose of satisfying the qualifying period under Section 5(2), but whether there existed a subsisting employer-employee relationship on the date from which maternity leave was sought to be availed and during the period for which such benefit was claimed. Admittedly, Respondent No.3's *ad-hoc* contractual appointment came to an end on 30th April 2024 and was never renewed thereafter. In the absence of a subsisting contract of employment, the question of directing the Petitioner-College to extend maternity leave or consequential benefits does not arise.

x x x x

22. The Court found that the non-renewal was directly linked to the Appellant/Petitioner's availing of maternity leave and held that such action amounted to arbitrary and discriminatory treatment. The decision was thus rendered in the context of an employer's refusal to continue the engagement of an employee on account of her pregnancy and maternity. The present case, however, stands on an entirely different footing. The Respondent No.3's *ad-hoc* contractual appointment came to an end automatically by efflux of time on 30.04.2024, strictly in accordance with the terms of her *ad-hoc* contractual appointment. The Petitioner-College neither terminated her services prematurely nor declined to renew her engagement on account of her pregnancy or maternity. The cessation of service was the natural consequence of the expiry of a fixed-term *ad-hoc* contractual appointment and not the result of any punitive or discriminatory action on the part of the Petitioner-College. In these circumstances, the Respondent No.3's case cannot be equated with that of Dr. Manisha Priyadarshini,(supra) where the employment relationship continued and the employer's refusal to renew the appointment was found to be attributable to the employee's availing maternity leave. In the present case, the *ad-hoc* contractual relationship had already come to an end by operation of the contract itself before the commencement of the period for which the Respondent No.3 claimed the maternity leave."

5. In the light of above discussion, we are not inclined to entertain this Writ Petition. It is accordingly rejected. No costs.

(DR. NEELA GOKHALE, J.) **(G. S. KULKARNI, J.)**

SHAMBHAVI NILESH SHIVGAN

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