



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3319 OF 2025

Dr. Meenakshi Muthiah,
Aged about 28 years, Occ. : Service,
R/o. Flat No.307, Sree Daksha Darza
Apartment, Nava India, Coimbatore,
Tamil Nadu.

.... **PETITIONER.**

// VERSUS //

1. State of Maharashtra, Through Secretary,
Department of Medical Education and
Drugs, 9th Floor, New Building, G.T.
Memorial Hospital Complex, Lokmanya
Tilak Road, Mumbai – 400 001.
2. State of Maharashtra, Through its Director,
Directorate of Medical Education & Research,
4th Floor, Government Dental College &
Hospital, St. George's Hospital Compound
Railway Station, PD'Mello Road, Near CSMT,
Chhatrapati Shivaji Terminus Area, Fort,
Mumbai, Maharashtra – 400 001.
3. The Government Dental College & Hospital,
Nagpur, Through its Dean, Government
Medical College Campus, Medical Square,
Nagpur – 440 003.

.... **RESPONDENTS.**

Shri A.M.Sudame, Advocate for Petitioner.
Shri N.S.Rao, A.G.P. for Respondent/State.

**CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.**

DATED : FEBRUARY 25, 2026.

ORAL JUDGMENT : (Per : Anil S. Kilor, J)

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. The impugned imposition of penalty of Rs.23,58,403/- on the petitioner for not completing the bond period of 365 days as an Assistant Professor after completion of Master of Dental Surgery (MDS), has gave a cause to the petitioner to file this petition raising a challenge to the above referred imposition of penalty.

Brief facts of the present case are as under :

4. The petitioner completed her Bachelor of Dental Surgery (BDS) from The Tamil Nadu Dr. M.G.R. Medical University, Chennai in the year 2018. Thereafter she did 'Compulsory Rotatory Internship' for one year from 03/10/2018 to 02/10/2019 from Chettinand Dental

College and Research Institute, Kanchipuram, Tamil Nadu. Thereafter she appeared for National Entrance Eligibility Test (NEET) - Masters in Dental Surgery (MDS) and accordingly enrolled in the said course and completed her MDS Part-II in Conservative Dentistry & Endodontics in the year 2023.

5. The respondent No.2 published vacancy list for online allotment for 'Government Social Responsibility Service' (Bond Service) to MDS degree holders on 02/11/2023. In the said list 14 seats were shown as vacant in respondent No.3 college. Out of those 14 seats one seat was for Assistant Professor with the subject of 'Conservative Dentistry'.

6. The respondent No.2 recommended name of the petitioner for 'Social Responsibility Service' on the post of 'Assistant Professor' in 'Conservative Dentistry' for one year, to the respondent No.3. Thereupon the respondent No.3 vide order dated 12/12/2023 appointed the petitioner as 'Assistant Professor' a candidate for Bond Period of 365 days w.e.f. 11/12/2023 to 10/12/2024. The petitioner joined services on 13/12/2023 in the respondent No.3 college.

7. It is the case of the petitioner that in the month of March 2024 she came to know that she was pregnant. Thereupon, on 20/04/2024 the petitioner made an application to the respondent No.3 for grant of maternity leave from 01/05/2024 till 30/09/2024.

8. On 17/06/2024 the petitioner gave birth to a baby girl. Thereafter on 22/10/2024 the petitioner requested to the respondent No.3 to allow her to complete the bond period up to 12/12/2024 following the maternity leave. She further informed that during the maternity leave period she did not get her salary.

9. On 18/12/2024, the Director, Medical Education and Research issued a letter to the respondent No.3 regarding Bond Completion Certificate of the petitioner, stating that the petitioner is required to complete the five months' period during which she was on maternity leave to receive the Bond Completion Certificate and if the said period is not completed, a penalty of Rs.22,94,699/- be imposed.

10. Thereafter on 21/12/2024 a calculation sheet was prepared and an amount of penalty to the tune of Rs.23,58,403/- came to be determined and thereupon an order was issued to the petitioner, on

06/01/2025 by the respondent No.3, to pay the penalty of Rs.23,58,403/- for not completing the bond period. The same is under challenge in this writ petition.

11. We have heard the learned counsel for the respective parties.

12. Shri Sudame, learned counsel for the petitioner argues that the maternity leave is a fundamental right enshrined under Article 21 of the Constitution of India and denying such maternity leave is nothing but violation of the human dignity. It is argued that for the care of mother and also the child, absence from employment of a woman before and after the child birth, is necessary. It is a bounden duty of any employer to be responsive to the physical difficulties, which a woman would face in performing her duties at the work place while carrying a baby in her womb or while bringing up a child after birth. It is, therefore, argued that imposition of penalty is in violation of Article 21 of the Constitution of India.

13. On the other hand, the learned A.G.P. argues that there is no provision under the 'Social Responsibility Service Scheme' to grant maternity leave during the bond period. It is argued that the Government

Resolution dated 08/02/2008 stipulates penalty in case the candidate fails to complete the bond period and accordingly the respondent No.3 rightly imposed penalty on the petitioner for not completing the bond period. It is further argued that the fact of pregnancy was suppressed by the petitioner while joining as 'Assistant Professor', a candidate of the bond period. He, therefore, submits that as there is no provision to grant such maternity leave, during the bond period and since the provisions of the Maternity Benefit Act, 1961 (hereinafter referred to as "the Act of 1961") is not applicable to the petitioner, no illegality has been committed in imposing the penalty. Accordingly, he prays for dismissal of the present writ petition.

14. In light of the rival submissions, we have perused the record.

15. It is evident from the record that after completion of MDS, the petitioner applied under the 'Social Responsibility Service' for the post of 'Assistant Professor' in 'Conservative Dentistry' with the respondent No.3 College and accordingly her appointment was made for the bond period of 365 days w.e.f. 11/12/2023 to 10/12/2024. The petitioner joined on 13/12/2023 and as such her period was counted as 13/12/2023 to 12/12/2024.

16. The object and purpose of Compulsory Rural Service Bond for medical professionals is that the students who are benefited from the infrastructure provided by the Government at the fraction of total expenses, shall contribute back to the community by rendering public service.

17. The fees charged per year from the students undergoing post graduate as well as super-speciality courses is only a fraction of the total expenses on the medical education incurred for each such student every year. As a matter of its social policy, the State Government does not charge fees commensurate with the cost of medical education from students, who pursue their M.B.B.S. degrees or post-graduation and super-specialization in government and municipal medical colleges. Admissions to such colleges are highly regarded because of the exposure and knowledge which students gain in the course of their medical studies in those institutions. The State spends a considerable amount of money in providing subsidized medical education. As a condition attaching to the provision of subsidized medical education, the State legitimately asserts that on the completion of their studies, such doctors should be required to render public service either in government or municipal medical colleges or in the defence services.

18. Now, reverting back to the facts, the petitioner was required to go on maternity leave during the bond period. The maternity leave refers to absence from employment of a woman before and after the child birth. It includes pre-natal leave, post-natal leave, protection from dismissal during pregnancy and leave period and right to return to the same position.

19. Such leave was asked for due to unavoidable circumstance, namely, motherhood does not end on the birth of the child, as newly born child needs continuous attention of the mother. Initially some days are the most crucial period in which the child requires care. The period of pregnancy and shortly thereafter is a crucial period for not just health of the mother but, also for the development of overall personality, the child would acquire and develop.

20. The petitioner was on maternity leave between 01/05/2024 and 30/09/2024 and when she made a request to resume the duties to complete the bond period, the impugned penalty came to be imposed on her for not completing the bond period, by not treating the leave period as duty period.

21. According to the respondent authority, such action is justifiable for the reason that the Act of 1961 does not apply and there is no provision for granting such maternity leave during the bond period.

22. Thus, in the matter at hand a question arises for consideration is whether the maternity leave is a right and if the answer is 'Yes', whether it overrides the regulations or any instructions or guidelines in case there is no provision for maternity leave.

23. To answer this, it may be beneficial to reiterate the law as laid down by the Hon'ble Supreme Court of India in various matters.

24. The Delhi High Court in the case of *Commissioner of Police v. Ravina Yadav*, reported in (2024) SCC OnLine Del. 4987, elaborated on the physiological and psychological impact of pregnancy and early infancy, recognizing that maternity leave protects not only the mother's dignity but also the child's neurological and emotional development. The Court acknowledged that early maternal bonding is critical for long-term cognitive and emotional health and in paras 12 to 15 has held thus :

"12.The purpose of the maternity leave is to ensure that a working lady may overcome the state of motherhood honourably, peaceably and undeterred by the fear of being victimized for forced absence from work during pre and post natal period. Women, even otherwise constituting sizeable part of workforce in our society, must be treated

with honour and dignity at places where they work to earn livelihood. Whatever be the nature of their job and the workplace, they must be provided all facilities to which they are entitled. Motherhood, being the most natural phenomena in the life of a woman and an indispensable requisite for continuation of human race, whatever is needed to facilitate birth of her child while she is in service, it is the bounden duty of the employer to be sensitive and responsive to the physical difficulties which she would face in performing her duties at the workplace while carrying a baby in her womb or while bringing up the child after birth.

13. It is a matter of common knowledge that pregnancy brings about major physiological changes in the body as well as psychological changes in mind of the women, ranging from morning sickness to enlargement of abdomen, coupled with mood swings and bouts of depression. Pregnancy also restricts movement of the lady carrying the child as it progresses through the term. In case complications arise during the term, movement of the pregnant lady may get completely stalled. It is for these reasons that a pregnant lady is granted maternity leave in government as well as non-government establishments. The difficulties get aggrandized when the pregnant lady is in a nuclear family, where she has to take care of all basic needs of her husband and children. But understanding of maternity cannot be uni-dimensional, keeping in context only the pregnant lady. The child from womb to infancy is an integral part of the concept of maternity, insofar as immediately from the birth moment across the stages of infancy the child undergoes extensive physical, physiological and psychological development, which would have significant bearing on her adulthood.

14. Therefore, not just motherhood, it is also the childhood that requires special attention. The health issues of both-mother as well as the child are to be kept in consideration while providing maternity leave, aimed at protecting the dignity of motherhood by providing for full and healthy maintenance of the woman and her child. The maternity leave is intended to achieve the object of ensuring social justice to women and children. This kind of leave ensures creation of a bond of affection between the mother and the child. A child sees the world for the first time through the eyes of her mother and develops her cognitive skills through the vision of her family. In earlier centuries, predominantly, in agrarian society, the role of woman was limited to taking care of children, household and family. Social conditions of modern family underwent transformation due to education, industrialization and urbanization. As a result, the social and legal concept related to the society also got changed. Motherhood has become a contentious issue in the modern society, particularly, in economic frontier, as the competing market interests override notions of culture and social justice like gender equity. Identity of a women is often tangled within the patriarchal structure of a profit motivated enterprise which dare to see mothering or family responsibility remain

subordinate to their interest. Complexity of working environment as above is designed by an architecture without adhering to rules of gender equity; often overwhelmingly to suit men.

15. ...

15.1. It is scientifically well established that the period of pregnancy and shortly thereafter is a very crucial period for not just health of the mother, but also for development of overall personality, the child would acquire and develop even across her adulthood. During the gestation period, mother and the foetus share many things. The mother's womb and placenta are replete with all the nutrients and warmth needed for the foetus. Just after birth, the infant needs the same warmth. It is the chest of the mother that provides the same warmth, offering an optimum body temperature and allowing the infant to consume energy, thereby controlling the infant's body temperature. The close touch between the mother and the child produces a sense of security in the infant, which gives them a surety that they are secure and in safe hands. The skin-to-skin touch assists in balancing blood sugar levels in the infant, thereby reducing the risk of hypoglycemia.

15.2. The early infancy environment and changes have lasting effect on the development of brain in the child. Researchers across the world have observed that infants begin to bond with their mother from the moment of birth, and this social bond continues to provide regulatory emotional functions throughout adulthood. It is part of well documented research that children from deprived surroundings like orphanages have vastly different hormone levels as compared to their parent-raised peers. For instance, in Romania during 1980s, in target group aged 6 to 12 years, levels of the stress hormone Cortisol were found much higher in children who lived in orphanages for more than eight months as compared to those who were adopted at or before the age of four months.

15.3. Other researches show that children who experienced early deprivation of maternal touch had different levels of Oxytocin and Vasopressin (hormones that have been linked to emotion and social bonding), despite having spent an average of three years in a family home and this environmental change into a home does not seem to have completely overridden the effects of earlier neglect, according to medical researches published in the year 2005 in the proceedings of the National Academy of Sciences, University of Wisconsin. The Vasopressin and Oxytocin neuropeptide systems, which are critical in the establishment of social bonds and regulation of emotional behaviors are affected by early social experience.

15.4. The results of various experiments suggest a potential mechanism whose atypical function may explain the pervasive social and emotional difficulties observed in many children who have experienced aberrant care giving. The social attachments formed between human infant and her caregiver begin very early in postnatal life and play a critical role in

child's survival and healthy adaptation. Typically, adults provide infants with a social environment that is fairly consistent. Caregivers learn how to recognize and respond to the infants' needs, thereby creating predictable contingencies in the environment; these regularities, in turn, make the infants' environment secure and conducive to further social learning. Multiple perceptual, sensory, cognitive, and effective systems must become synchronized so that a social bond can develop between an infant and caregiver; this bond is then reflected in the child's adaptive behavioral responses to the environment. {Reference: Paper published by the team of Department of Psychology, University of Wisconsin, led by Alison B Wismer Fries.}

25. The Hon'ble Supreme Court of India in the case of *K. Umadevi ..vs.. Government of Tamil Nadu & Ors*, reported in (2025) 8 SCC 263, has held thus :

“37. Section 27 of the Maternity Benefit Act is also relevant. It deals with effect of laws and agreements inconsistent with the Maternity Benefit Act and declares that provisions of the Maternity Benefit Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in terms of any award, agreement or contract of service, whether made before or after the coming into force of the Maternity Benefit Act.

38. The objective of maternity leave has been expounded by this Court in B. Shah v. Labour Commr. [B. Shah v. Labour Commr., (1977) 4 SCC 384 : 1977 SCC (L&S) 560 : AIR 1978 SC 12] This Court observed that maternity leave legislation is intended to achieve the object of doing social justice to women workers. It enables a woman worker not only to subsist but also to make up her dissipated energy, nurse her child, preserve her efficiency as a worker and maintain the level of her previous efficiency and output.

39. ...

40. Universal Declaration of Human Rights was adopted by the United Nations in the year 1948. Article 25 thereof has got two clauses. Clause (1) says that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family. This includes food, clothing, housing, medical care, etc. However, Article 25(2) is relevant which is as under:

“25. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

Thus, Article 25(2) of the Universal Declaration of Human Rights recognises that motherhood and childhood are entitled to special care and assistance. This principle acknowledges State intervention and support for maternity related entitlements.

47. A Maternity Protection Convention was held on 30-5-2000 at Geneva under the aegis of the International Labour Organization. General Conference of the International Labour Organization adopted the proposals of the said Convention on 15-6-2000. International labour standards have long recognised maternity protection as essential for promoting workplace equality and safeguarding maternal and child health. This Convention applies to all employed women including those in atypical forms of dependent work.

48. Article 4 of this Convention deals with maternity leave. As per clause (1), a woman to whom the said Convention applied shall be entitled to a period of maternity leave of not less than 14 weeks. As per clause (4), maternity leave shall include a period of 6 weeks' compulsory leave after childbirth for the protection of the health of the mother and that of the child. Clause (5) clarifies that the prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of post-natal leave.

49. Under Article 8(1) of the Convention, it shall be unlawful for an employer to terminate the employment of a woman during her pregnancy. As per clause (2), a woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

57. In a recent decision, the Delhi High Court in Delhi Police v. Ravina Yadav [Delhi Police v. Ravina Yadav, 2024 SCC OnLine Del 4987] explained the purpose of maternity benefit. It is to ensure that a working lady may overcome the state of motherhood honourably, peaceably and undeterred by the fear of being victimised for forced absence from work during pre- and post-natal periods. Women now constituting a sizable portion of the workforce in our country, must be treated with honour and dignity at places where they work to earn their livelihood.

58. The High Court in Raveena Yadav case [Delhi Police v. Ravina Yadav, 2024 SCC OnLine Del 4987] went on to explain the impact of pregnancy on the physiological and psychological state of a woman employee undergoing pregnancy. It is not just motherhood but also childhood that require special attention. Health issues of both mother as well as that of the child are to be kept in

consideration while providing maternity leave. Concept of maternity leave is a matter of not just fair play and social justice but is also a constitutional guarantee to the women employees of this country towards fulfilment whereof the State is bound to act.”

26. To summarize, it may be noted that, it is now well settled that right to life guaranteed under Article 21 of the Constitution means life in its fullest sense.

27. It is fundamental right of everyone to live with human dignity which includes protection of the health. The pregnancy and child birth require medical care and recovery time. The adequate leave reduces health risk for both the mother and the child. Early bonding, breast feeding and parental care are crucial for child's physical and emotional development.

28. Thus, motherhood is not an excuse to avoid the work. If a mother genuinely prevented her from attending the work, no employer can be allowed to take action against such woman employee for being absent from the work because she has to take care of her child due to her responsibilities towards the child.

29. Therefore, even if the Act of 1961 is not applicable, no Service Rules can stop a woman from claiming protection of her basic right to live with dignity as a mother. Any action by the employer in such matter

would amount to taking away and going against the dignity of the woman.

30. The maternity leave allows the working women to take time from her job, give birth, recover and care for the new born child without fear of losing her employment. This right is essential for safeguarding the health, dignity and economic security of mothers and their children. Therefore, the right to maternity leave is not just a workplace benefit, a necessary protection that promises health, equality and social progress. Thus, it is bounden duty of the employer to be sensitive and responsive to the physical difficulties, which she would face in performing her duties at the work place while bringing up the child after birth.

31. The respondent No.2 being Director of Medical Education and Research was expected to be more sensitive in such matters as the respondent No.2 can very well understand the importance of the care to be taken by the mother of herself and the child before and after the birth of the child. However, the impugned action of the respondent Nos.2 and 3 tantamounts to taking away the dignity of the petitioner by penalising her contrary to the safeguards provided to her relating to the maternity rights.

32. Having held so, we have no hesitation to hold that the maternity leave is not a break in service and bond cannot be used to penalise a woman for exercising her right to motherhood. No bond can override the right to maternity leave which is a facet of fundamental right under Article 21 of the Constitution of India. Any contract, agreement or bond that penalises a woman for taking maternity leave or tries to deny her this right to that extent is found inconsistent according to Section 27 of the Maternity Benefit Act, 1961. The petitioner cannot be denied such right only because the bond was executed by her under Social Responsibility Service Scheme and not holding permanent status as she is also entitled to the same protective umbrella as available to regular employees when it comes to maternity related entitlement.

33. In the circumstances, we have no hesitation to hold that the period during which the petitioner was on maternity leave needs to be considered as duty period and the petitioner is entitled for salary for the said period. Excluding the maternity leave period the petitioner has shown readiness and willingness to complete her bond period as Assistant Professor, the same shall be permitted if there is no any legal impediment.

34. Accordingly, we pass the following order :

- i) The Writ Petition is **allowed**.
- ii) The order dated 06/01/2025, imposing penalty of Rs.23,58,403/- is hereby quashed and set aside, consequently the penalty paid by the petitioner shall be refunded back to her within four months from the date of this order.
- iii) The petitioner shall be paid salary for the maternity leave period.
- iii) The petitioner shall be permitted to complete her bond period, excluding the maternity leave period, which was considered as duty period, if there is no any other legal impediment in allowing her to complete the bond period.
If, for any reason, the petitioner cannot be permitted to complete the bond period, the respondents shall issue a certificate to her certifying completion of the bond period.

The Rule is made absolute accordingly. In the circumstances, there shall be no order as to costs.

(RAJ D. WAKODE, J)

(ANIL S. KILOR, J)