

ITEM NO.44

COURT NO.6

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 2543/2023

(Arising out of impugned final judgment and order dated 20-09-2022 in WP No. 4546/2016 passed by the High Court Of Judicature At Bombay At Aurangabad)

GANESH DIGAMBER JAMBHRUNKAR &amp; ORS.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA &amp; ORS.

Respondent(s)

(IA No. 118363/2023 - APPROPRIATE ORDERS/DIRECTIONS; IA No. 6681/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 6685/2023 - EXEMPTION FROM FILING O.T.)

Date : 12-09-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Ms. Manisha T. Karia, AOR  
Ms. Nidhi Nagpal, Adv.  
Mr. Rohan Trivedi, Adv.  
Ms. Riya Kharab, Adv.  
Mr. Swapnil B., Adv.

For Respondent(s) Mr. Aaditya Aniruddha Pande, AOR  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Bharat Bagla, Adv.  
Mr. Sourav Singh, Adv.  
Mr. Aditya Krishna, Adv.

Mr. Shrirang B. Varma, Adv.  
Mr. Anand Dilip Landge, AOR

Mr. Mrigank Prabhakar, AOR  
Mr. Manoj Ranjan Sinha, Adv.  
Mr. Deepak Sain, Adv.  
Ms. Rachna Ranjan, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard learned counsel for the petitioners and the respondent-State.

The petitioners were all appointed in Shri Guru Govind Singh Institute of Engineering and Technology on contractual basis and their appointments were made sometime in the year 2011. They are aggrieved as a regular recruitment process has started and we are apprised by learned counsel for the respondent-State that at present such process stands completed now but appointment letters are yet to be issued. The petitioners want to be regularized in the post for which such appointment process has been started and in this regard, learned counsel for the petitioners has relied on a judgment of this Court in the case of *Sheo Narain Nagar and Others Vs. State of Uttar Pradesh and Another: (2018) 13 SCC 432*. Paragraph '7' of this judgment reads as under:

*"7. When we consider the prevailing scenario, it is painful to note that the decision in Umadevi(3)<sup>4</sup> has not been properly understood and rather wrongly applied by various State Governments. We have called for the data in the instant case to ensure as to how many employees were working on contract basis or ad hoc basis or daily-wage basis in different State departments. We can take judicial*

notice that widely aforesaid practice is being continued. Though this Court has emphasised that incumbents should be appointed on regular basis as per rules but new devise of making appointment on contract basis has been adopted, employment is offered on daily-wage basis, etc. in exploitative forms. This situation was not envisaged by *Umadevi(3)*<sup>4</sup>. The prime intendment of the decision was that the employment process should be by fair means and not by back door entry and in the available pay scale. That spirit of the *Umadevi(3)*<sup>4</sup> has been ignored and conveniently overlooked by various State Governments/authorities. We regretfully make the observation that *Umadevi(3)*<sup>4</sup> has not been implemented in its true spirit and has not been followed in its pith and substance. It is being used only as a tool for not regularising the services of incumbents. They are being continued in service without payment of due salary for which they are entitled on the basis of Articles 14, 16 read with Article 34(1)(d) of the Constitution of India as if they have no constitutional protection as envisaged in *D.S. Nakara V. Union of India*<sup>8</sup>, from cradle to grave. In heydays of life they are serving on exploitative terms with no guarantee of livelihood to be continued and in old age they are going to be destituted, there being no provision for pension, retiral benefits, etc. There is clear contravention of constitutional provisions and aspiration of downtrodden class. They do have equal rights and to make them equals they require protection and cannot be dealt with arbitrarily. The kind of treatment meted out is not only bad but equally unconstitutional and is denial of rights. We have to strike a balance to really implement the ideology of *Umadevi(3)*<sup>4</sup>. Thus, the time has come to stop the situation where *Umadevi(3)*<sup>4</sup> can be permitted to

*be flouted, whereas, this Court has interdicted such employment way back in the year 2006. The employment cannot be on exploitative terms, whereas Umadevi(3)<sup>4</sup> laid down that there should not be back door entry and every post should be filled by regular employment, but a new device has been adopted for making appointment on payment of paltry system on contract/ad hoc basis or otherwise. This kind of action is not permissible when we consider the pith and substance of true spirit in Umadevi(3)<sup>4</sup>."*

The issue with which we are concerned in this petition is as to whether by working for a long period of time on contractual basis, the petitioners have acquired any vested legal right to be appointed in the respective posts on regular basis.

We appreciate the argument of the petitioners that they have given best part of their life for the said college but so far as law is concerned, we do not find their continuous working has created any legal right in their favour to be absorbed. In the event there was any scheme for such regularization, they could have availed of such scheme but in this case, there seems to be none. We are also apprised that some of the petitioners have applied for appointment through the current recruitment process. The High Court has rejected their claim mainly on the

ground that they have no right to seek regularization of their service. We do not think any different view can be taken.

The present petition shall stand dismissed.

Pending application(s), if any, shall also stand disposed of.

(SNEHA DAS)  
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)  
ASSISTANT REGISTRAR