

1

ITEM NO.44 COURT NO.6 SECTION IX
 SUPREME COURT OF INDIA
 RECORD OF PROCEEDINGS

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 & ORS. Petitioner(s)
 VERSUS

THE STATE OF MAHARASHTRA & 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.

2

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) 4
 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

3

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) 4

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) 4

has been ignored and conveniently overlooked by various State Governments/authorities. We regretfully make the observation that Umadevi(3) 4 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 8

, 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) 4

. Thus, the time has come to stop the situation where Umadevi(3) 4 can be permitted to

4

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) 4
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) 4

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

5
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) (VIDYA NEGI)
SENIOR PERSONAL ASSISTANT ASSISTANT REGISTRAR