IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6262 OF 2026

1. Namdeo Tukaram Dhonnar, Age 46 years,
R/o.At Post Bhatsanagar, Tal.Sahapur, Dist.Thane.
2. Machindranath Dadu Katware, Age 42 years,
R/o.At Postl Kasara (Thakurwadi), Tal.Sahapur,
Dist.Thane.
3. Bhaskar Rama Pardhi, Age 38 years,
R/o.At Lakud Pad, Post Mal, Tal.Murbad,
Dist.Thane.
4. Govind DagduKarbhal, Age 41 years,
R/o.Dagdu, Moroshi, Sawane, Dist.Thane.
5. Somnath Nanasaheb Phapale, Age 38 years,
R/o.Otur, Tal.Junnar, Dist.Nashik.
6. Vasant Himmat Khairnar, Age 55 years,
R/o.At Post Wasind, Tal.Shahapur, Dist.Thane. Petitioners

versus

1. The State of Maharashtra through
Principal Secretary, Tribal Development Department,
Mantralaya, Mumbai.
2. The Commissioner, Tribal Department,
Ground Floor, Adivasi Vikas Bhavan,
Gadkari Chowk, Old Agra Road, Thane.
3. The Additional Commissioner,
Tribal Development, Thane Region, Thane.
4. The Project Director,
Integrated Tribal Development Project,
Shahapur, Dist.Thane. Respondents

Ms.Pradnya Talekar with Ms.Madhuri Ayyapan and Ms.Arushi Keniya i/by Talekar & Associates for Petitioner.

Mr.B.V.Samant, Additional Govt.Pleader with Smt.M.P.Thakur, AGP, for Respondents.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

Date of Reserving the Judgment : 20th August 2026
Date of Pronouncing the Judgment : 3rd September 2026

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JUDGEMENT: (Per: Aarti Sathe, J): -

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.

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

> "A. To quash the impugned orders dated 13.1.2026 and 14.1.2026 issued by the respondent nos.3 (Exhibit E) by issuing a writ of certiorari or any other appropriate writ, order or direction, as the case may be;
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> B. To direct the respondents to regularize the services of petitioners either as assistant teachers in class III or Kamathi/Bahudeheshiya in class IV in the basic or post basic Ashram Schools run by the Tribal Development Department and pay all the benefits of permanency to them from the date of completing 10 years of service or filing of the petitions in earlier round of litigation in this Hon'ble Court, whichever is earlier, by issuing writ of mandamus or any other appropriate writ or order as the case may be;
>
> C. To direct the respondents to pay to the petitioners salary in the pay-scales prescribed to the post of assistant teacher and kamathi/bahudeshiya as per the recommendations of 7th Pay Commission, by issuing writ of mandamus or any other appropriate writ or order as the case may be;
>
> D. To grant interim injunction restraining the respondents, their agents, subordinates, servants and anyone acting on their behalf from discontinuing or terminating the service of petitioners on various post in Ashram Schools under Tribal Development Department, as the case may be, pending hearing and final disposal of this petition;
>
> E. To issue suo-motu contempt proceedings against the respondent authorities in circumventing the directions of this Hon'ble Court in WP Nos.6693 of 2023, 7862 of 2023, 4385 of 2024 and 4381 of 2024."

3. The primary grievance of the Petitioners in the present petition is in respect of orders dated 13th January 2026 and 14th January 2026 (hereinafter referred to as the "impugned orders") issued by Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane, thereby refusing to regularize the services of the Petitioners on the teaching and non-teaching posts, despite various orders issued by this Court in respect of petitions filed by the Petitioners.

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4. The facts lie in a narrow compass. The Petitioners were appointed as secondary and primary school teachers in Government Ashram Schools, Thane District. It is the Petitioners' contention that all the Petitioners have completed 10 to 13 years of service in their respective secondary and primary schools, and the same is evidenced by a chart annexed as Exhibit-A to the present petition. Respondent No. 1 operates Government Ashram Schools to provide essential education to tribal children in the remote, hilly and geographically challenging terrains of Shahapur Project, District Thane. Due to lack of basic civic facilities in these small villages, qualified staff are not willing to serve, leading to a critical vacancy crisis, where schools are often on the verge of closure. It is in these circumstances that the Respondents, instead of issuing public advertisements, appointed the Petitioners as secondary and primary school teachers on daily wages, clock-hour, or honorarium basis in view of the fact that Petitioners possess the requisite qualifications, so that tribal students were not deprived of their fundamental right to education.

5. It is the Petitioners' contention that despite rendering continuous service ranging from 10 to 13 years, they have been denied regular pay scales and permanency benefits, and that the Respondents have issued fresh appointment orders for every academic year, creating artificial breaks in service, which included mandatory bonds forcing the Petitioners to disclaim any right to permanency. It is the Petitioners' contention that these are exploitative breaks in service given by the Respondents. It is further the Petitioner's contention that they have been working either as secondary teachers or as primary teachers, and they have gained enough

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experience and knowledge, since they have been working for the last 10 to 13 years in the said posts, which is evident from the initial and recent appointment orders.

6. Being aggrieved by the continued temporary status despite rendering long years of service, and the Respondents' failure to regularize the Petitioners' services, the Petitioners were constrained to approach this Court to seek regularization of their services. On 31st October 2018 this Court in **Madhukar Bhavanrao Sadgir and Others Vs. The State of Maharashtra and Others**[1] directed the regularization of teaching and non-teaching staff and clarified that ten years' service is the benchmark and sole criteria for regularization, and held that any procedural irregularities stand covered by such dedicated service.

7. Further, on 30th January 2025, a Co-ordinate bench of this Court in **Namdeo Tukaram Dhonnar and Others Vs. The State of Maharashtra and Others**[2], filed by the Petitioners in an earlier round of litigation, once again specified that those employees who had completed ten years of service shall be considered for regularization. Pursuant to the above order and considering that the Petitioners had completed ten years of service, they approached the Respondent authorities for absorption/ regularization, which has not been done so far. It is the Petitioners' contention that the Petitioners have attended the hearing before the concerned Respondent authorities, and even submitted documents for verification, and yet the regularization of the Petitioners' services remain pending. However, on 13th January 2026 and 14th January 2026, Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane vide orders of even

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1 Writ Petition No.5867 of 2015, decided on 31-10-2018

2 Writ Petition No.6693 of 2023, decided on 30-1-2025

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dates passed orders rejecting the regularization request of the Petitioners for the reasons mentioned therein. The official English translation of the order dated 13th January 2026 pertaining to Petitioner No. 3 is reproduced hereinbelow: -

Order

In connection with the letter referred to at Serial No. 7, Shri Bhaskar Rama Pardhi was granted an opportunity to putforth his say with reference to his case on the date 08/01/2026 in accordance with the principles of natural justice. However, the concerned petitioner submitted a joint representation.

As stipulated in the Order dated 30/01/2025 passed by the Hon'ble High Court in Writ Petition No. 7862/2023, referred to hereinabove under the Caption 'Read' at Serial No. 2, the service particulars, Appointment Order and related aspects of Shri Bhaskar Rama Pardhi have been verified.

The Hon'ble High Court in Paragraph 4, has clarified that only those candidates who have completed 10 years of continuous service shall be eligible for regularization.

The Hon'ble High Court has specified the following criteria for the regularization of Teachers-candidates working on a daily-wage basis:

1. The candidate must have completed 10 years of service on a dailywage / clock-hour basis.

2. The Teacher-staff member must have passed the Teacher Eligibility Test (TET); if not, passing the upcoming TET examination (Illegible) (01/09/2027) shall be mandatory.

3. As regards the teachers who have completed 10 years of service, it is mandatory that they have been appointed on the basis of educational qualifications following an interview conducted prior to their appointment.

However, upon verification of the documents of Shri Bhaskar Rama Pardhi, the following facts have come to the notice.

I. At the time of Shri Bhaskar Rama Pardhi's appointment, no interview was conducted.

II. Shri Bhaskar Rama Pardhi was appointed without adhering to the prescribed due process.

III. The Petitioner has failed to submit evidence in respect of the abovementioned points.

Shri Bhaskar Rama Pardhi does not possess the mandatory qualification of TAIT (Teacher Aptitude and Intelligence Test) required for the post of Secondary Teacher, as per Government Resolution No. RTE2010/M.No.572/P.T.-1 dated 13/02/2013 issued by the School Education Department. Moreover, he fails to comply with other conditions set forth in the Order of the Hon'ble High Court.

Therefore, taking into comprehensive consideration all the facts mentioned

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> hereinabove and in accordance with the information submitted by the concerned Project Officer, it is hereby decided that since Shri Bhaskar Rama Pardhi does not satisfy the criteria laid down by the Hon'ble High Court, he is not eligible for regularization on the post of Secondary Teacher / Primary Teacher under the Tribal Development Department. Consequently, the claim of Shri Bhaskar Rama Pardhi for regularization of service stands rejected.

8. We have heard Ms. Talekar, along with Ms. Madhuri Ayyapan and Ms. Arushi Keniya appearing on behalf of Petitioners, and Mr. B.V. Samant, Additional Govt. Pleader along with Smt. M.P. Thakur, AGP, appearing on behalf of the State.

9. At the very outset, learned counsel on behalf of the Petitioners Ms. Talekar submitted that the impugned orders dated 13th January 2026 and 14th January 2026 have been passed in complete disregard of the settled position in law, as enunciated in the judgment of this Court in **Madhukar Bhavanrao Sadgir (supra).** Learned counsel for the Petitioners submitted that Respondent No. 3- Additional Commissioner, Tribal Development, Thane Region, Thane has sought to place an erroneous interpretation on the directions/decision as rendered by this Court in the case of **Madhukar Bhavanrao Sadgir (supra)** to hold that the Petitioners are ineligible and cannot be regularized. She has further submitted that in a series of decisions the ratio as laid down in the case of **Madhukar Bhavanrao Sadgir (supra)** has been followed to regularize the services of the Petitioners therein, who had completed ten years or more of service. She has sought to place reliance on the following decisions, wherein the decision rendered in **Madhukar Bhavanrao Sadgir (supra)** has been followed:-

i. Satappa Krushnath Powar Vs. The State of Maharashtra & Ors. (Writ Petition No. 529 Of 2019),

ii. Kamlakar Jagannath Patil And Others V/s The State of Maharashtra & Ors. (Writ Petition No. 8115 Of 2021),

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iii. Kakasaheb S/o Pandharinath Chavan & Ors. Vs. The State Of Maharashtra & Ors. (Writ Petition Nos. 5263 of 2021 & 6811 of 2021),

iv. Pandurang Hari Shelke Vs. The State of Maharashtra & Ors. (Writ Petition No. 8524 of 2022- Aurangabad Bench),

v. Kusum Babalu Bhoye and Ors. Vs. The State of Maharashtra & Ors. (Writ Petition No. 3195 of 2023- Aurangabad Bench),

vi. Tanaji Vasant Vasave & Ors Vs. The State of Maharashtra & Ors. (Writ Petition No. 3136 of 2023- Aurangabad Bench),

vii. Dhirsing Punya Raut & Ors. Vs. The State of Maharashtra & Ors. (Writ Petition No. 4391 of 2023- Aurangabad Bench),

viii. Ganesh S/o Jagganath Rahane Vs. The State Of Maharashtra (Writ Petition No. 3503 of 2023- Nagpur Bench),

ix. Dakram S/o Dashrath Dhongde & Ors. Vs. The State of Maharashtra (Writ Petition No. 2371 of 2023- Nagpur Bench),

x. Suresh Kashinath Mahale & Ors. Vs. The State of Maharashtra & Ors. (Writ Petition No. 6799 of 2023),

xi. Vaneeta Ugalal Chavan & Ors Vs. The State of Maharashtra & Ors. (Writ Petition No. 16724 of 2024),

xii. Manisha Govind More and & Ors. Vs. The State of Maharashtra & Ors. (Writ Petition No. 11496 of 2025),

xiii. Avinash Ramdas Lande Vs. The State of Maharashtra & Ors. (Writ Petition No. 16074 of 2025).

10. She has further submitted that when regularization has been granted to over 2,000 similarly situated employees, while denying the same to Petitioners, who possess identical qualifications, it is a clear violation of Articles 14 and 21 of the Constitution of India, and further, the same is an arbitrary approach on the part of Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane. It is also her submission that the Government has to act as a model

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employer, and should not indulge in exploitative tactics against teachers who are vulnerable and are teaching in remote and tribal areas for the benefit of tribal students. In fact, the regularization of services of the Petitioners is a right which must flow once the Petitioners have put in ten or more years of service, and the same cannot be denied to them. It is further her contention that even the reasons which have been given in the impugned orders dated 13th January 2026 and 14th January 2026 by Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane to not regularize the Petitioners are incorrect reasons, and the decision in **Madhukar Bhavanrao Sadgir** (supra) has taken into consideration all the aforesaid reasons. It is her contention that the Petitioners were properly appointed, and interviews of the Petitioners were held prior to the selection process, and the same is borne out by the order passed by a Co-ordinate Bench of this Court in **Namdeo Tukaram Dhonnar and Others** (supra) in the earlier round of litigation filed by the Petitioners. The relevant paragraph of the said order establishing the undisputed facts is reproduced below: -

> "3. For the sake of brevity, we deem it appropriate to make a reference to the fact that these Petitioners have been appointed by the concerned Respondent Institutions as Assistant Teachers and/or Class III and Class IV employees in the Post Basic Government Ashram Schools. They were called upon to participate in a selection process and after conducting interviews, they were selected as Assistant Teachers/class III/IV non-teaching staff category."

11. She has further submitted that other objections/reasons given in the impugned orders dated 13th January 2026 and 14th January 2026 also did not stand to reason, inasmuch as all necessary documentation in respect of Petitioners' claim was submitted before Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane at the time of hearing, and as also stated

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above, no advertisement was issued for the aforesaid posts, considering the peculiar circumstances in which the appointments of the Petitioners were made. She has further contended that in the case of **Madhukar Bhavanrao Sadgir** (supra), this Court had granted regularization to the Petitioners therein, in respect of whose appointments also, the advertisement(s) were not published, and as long as they had completed 10 to 15 years of service, they were regularized. It is therefore her submission that the impugned orders dated 13th January 2026 and 14th January 2026 are liable to be set aside, and the ratio as laid down in the case of **Madhukar Bhavanrao Sadgir** (supra), and the subsequent decision in **Namdeo Tukaram Dhonnar and others** (supra) following **Madhukar Bhavanrao Sadgir** (supra) apply with all force in the present petition.

12. *Per contra*, Mr. Samant, learned Additional G.P. has contended that the present petition in not maintainable, inasmuch as there is an alternative remedy available to the Petitioners to approach the Maharashtra Administrative Tribunal ('MAT') in respect of their grievances. He sought to place reliance on the decision of **L. Chandra Kumar vs. Union of India**[3] in support of the aforesaid contention. He also submitted that the Petitioners work on clock-hour basis and that they have not disclosed their actual working hours, mode of selection, and therefore, considering that the aforesaid are disputed questions of fact which have been suppressed in the present petition, the present petition deserves to be dismissed. He sought to distinguish the decision as relied upon by the Petitioners in the case of **Madhukar Bhavanrao Sadgir** (supra) on the ground that there was a

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3 (1997) 3 SCC 261

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contradiction in the aforesaid decision of **Madhukar Bhavanrao Sadgir** (supra) in paragraph Nos. 5 and 22, and hence the Petitioners cannot rely upon the aforesaid findings to contend that even in respect of Petitioners who had not completed 10 years of continuous service as on 31st October 2018 in the Government Ashram Schools, regularization can be granted to them. He therefore submitted that in the facts of the present case Petitioner Nos. 1 to 5 have not completed 10 years of continuous service as on 31st October 2018, and also further that Petitioner No. 6 though has taken a stand that he has completed 13 years of service as on 31st October 2018, however, his service was not a continuous service and there were breaks in his services, and hence the decision in **Madhukar Bhavanrao Sadgir** (supra) was not applicable to him. His entire contention was therefore based on the fact that as on 31st October 2018, when the decision of **Madhukar Bhavanrao Sadgir** (supra) was rendered, the Petitioners had not completed 10 years of service, and hence the findings in the aforesaid decision would not be applicable to them. He further sought to place reliance on the decision of **State of Rajasthan and Ors vs. Daya Lal & Ors.**[4] to contend that regularization of services cannot be granted in respect of employees who had not been appointed in pursuance of regular recruitment in accordance with the relevant rules in an open competitive process against sanctioned vacant posts. He submitted that in the aforesaid judgment it has been held that the equality clause contained in Articles 14 and 16 of the Constitution of India should be scrupulously followed, and the Court should not issue a direction for regularization of services of employees which would be

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4 (2011) 2 SCC 429

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violative of the constitutional scheme. While something that is irregular for want of compliance of one of the elements of process of selection, which does not go to the root of the process, can be regularized, back door entries, appointments contrary to the constitutional scheme, and/or appointment of ineligible candidates cannot be regularized. He further sought to contend that the decisions of **Bhola Nath vs The State of Jharkhand & Ors.**[5] and **Jaggo vs Union of India & Ors.**[6] on which learned counsel for the Petitioner would seek to place reliance on for the purposes of regularization did not consider the decision of **Daya Lal & Ors.** (supra), and therefore, his submission was that on all counts, the present petition needs to fail. He further submitted that the decision in **Secretary, State of Karnataka and Others Vs. Umadevi and Others**[7], which is a decision rendered by a five judge bench would have precedence over the decisions of **Bhola Nath** (supra) and **Jaggo** (supra). He therefore submitted that the aforesaid regularization could not be accepted.

13. We have heard learned counsel on behalf of the parties and perused the papers and proceedings with their assistance, and we proceed to decide present petition. At the very outset it is an undisputed position that the Petitioners on the date of filing of the petition have completed either ten years, or more than ten years of service. It is also evident that the reasons as given in the impugned orders dated 13th January 2026 and 14th January 2026 are not sufficient to hold the Petitioners ineligible for regularization, inasmuch as the Petitioners had been interviewed prior to the selection process, and the evidence in support of the

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5 2026 SCC Online SC 129

6 2024 SCC ONLine SC 3826

7 (2006)4 SCC 1

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contention of the Petitioners was submitted, and it is also an admitted position that the advertisement for the posts was not published prior to the selection process in the peculiar circumstances of the Petitioners' appointments.

14. We are further of the view that considering the decision of **Madhukar Bhavanrao Sadgir** (supra), wherein it has been categorically held that where the Petitioners have been working continuously for ten years on a meagre honorarium, asking the Petitioners to continue to work on such honorarium for such a long period would certainly amount to their exploitation. The State is expected to be a model litigant, as held in the said decision. We do not see any ground which has been pointed out by the learned Additional Additional G.P. to not apply the principle as laid down in the decision of **Madhukar Bhavanrao Sadgir** (supra). In fact, the submissions made by learned Additional G.P. to differentiate the applicability of the decision in **Madhukar Bhavanrao Sadgir** (supra) are such which ought to be rejected at their very threshold. The relevant paragraphs in the aforesaid decision are reproduced below:

> "14. In the present case majority of the persons have been appointed prior to ten years and during the pendency of the writ petition some of them have completed ten years. They are regularly working on the said posts on meager honorarium. The government is expected to be a model litigant.
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> 15. One needs to keep in mind that these petitioners were appointed as the respondents were not getting Assistant Teachers so also Class III and Class IV employees to officiate in the government tribal ashram school run under the Tribal Development Department in the remote tribal areas. The respondents also did not conduct the selection process for all these years. Keeping the petitioners for a long period on honorarium would certainly amount to their exploitation.
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> 16. Exceptional circumstances exist to consider the case of the petitioners for regularization of at least those who have completed ten years of service as laid down in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others (supra).
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> 17. The following circumstances persuades us to consider the case of the petitioners for regularization of those who have completed ten years in service :

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(1) The posts on which the petitioners are appointed are sanctioned posts.

(2) The work load is available.

(3) The petitioners have agreed to officiate at the time when the respondents were not getting the necessary teaching and non teaching staff to work in remote tribal
areas and more particularly when the means of communication and transportation were scarce.
(4) The respondents have not undertaken selection process for all these years to fill in the posts held by the petitioners.

(5) The petitioners are working continuously for ten years or more on meager honorarium.

(6) Asking the petitioners to continue to work on meager honorarium for such a long period would tantamount to their exploitation not expected from the welfare State. The State is expected to be a model litigant.

18. We have considered the case of only those petitioners who have completed ten years or more in the service.

19. The petitioners and the respondents have given the details of the number of years the petitioners have worked. During the pendency of the present writ petition some of the petitioners are terminated from the service. We would not be considering the case of the petitioners who are terminated from the service prior to the completion of ten years. However, those petitioners who have completed ten years of service and in spite of pendency of the writ petition are terminated are required to be reinstated.

20. There is not much difference in the chart given by the petitioners and the State with regard to the number of years the petitioners had worked.

21. In light of the above, we pass the following order :

ORDER

(i) The respondents shall regularize the services of the petitioners who have completed ten years of service with effect from the date they have completed ten years or the date of filing of writ petition whichever is later.

(ii) Those petitioners who are terminated after completion of ten years of service during the pendency of the writ petition shall be reinstated and shall be granted regularization from the date they have filed the petition or after completion of ten years of service whichever is later.

(iii) For all practical purposes the services of the petitioners shall be considered regular from the date as observed above. However, we may not grant them actual financial benefit for the period prior to the present order. They will be entitled for the regular pay scale from 01.011.2018.

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(iv) The respondents shall count the services of the petitioners from their date of appointment continuously for counting ten years of their service.

22. We have not considered the cases of those petitioners who have not completed ten years of their service. We leave it to the respondent-State to consider their case on its own merits and as per their policy."

15. Further, the decisions on which learned Additional G.P. seeks to place reliance to contend that the Petitioner should not be regularized also do not advance the case of the Respondent, inasmuch as in the case of **Daya Lal & Ors.** (supra) the appointments of the Assistant Superintendents were on a temporary basis, and also the aforesaid appointments were not made against sanctioned posts, and hence on the basis thereof the relief of regularization was not granted. The contention of the learned Additional G.P. that this decision was not considered in the case of **Bhola Nath** (supra) and **Jaggo** (supra) deserves to be rejected, inasmuch as in both the aforesaid cases the appointments were made against sanctioned posts by way of an advertisement. In **Bhola Nath** (supra), the appointments were made after following the prescribed selection process, including roaster clearance, and it is in these facts that the Supreme court was of the view that regularization had to be granted to the aforesaid employees. In fact, in the said decision the Supreme Court has deprecated the practice of the State in continuing the Appellants therein on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying their consideration for regularization. It was further held that the State as a model employer could not rely on contractual labels or a mechanical application of **Umadevi & Ors.** (supra) to justify prolonged ad-hocism or to discard long serving employees in a manner inconsistent with fairness, dignity, and constitutional governance. Similar principles have been applied in the

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case of **Jaggo** (supra). In fact, in the case of **Jaggo** (supra) it has been specifically held that the decision in **Umadevi & Ors.** (supra) did not intend to penalize employees who have rendered long years of services, fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment only sought to prevent back door entries and illegal appointments that circumvent constitutional requirements. However, where appointments are not illegal but possibly irregular, and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. The relevant paragraphs of **Jaggo** (supra) are reproduced below:-

> **19.** It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.
>
> **20.** It is well established that the decision in *Uma Devi* (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in *Vinod Kumar* v. *Union of India*, it was held that held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:
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> > *"6. The application of the judgment in* Uma Devi *(supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for*

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vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi *(supra).*

7. The judgment in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case…"

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment : continuous, long-term service, indispensable duties, and absence of any *mala fide* or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration[6] encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgment of the United State in the case of *Vizcaino* v. *Microsoft Corporation*[7] serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in

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rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of "Temporary" Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.
- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.
- **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi* (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour

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> standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.
>
> (Emphasis supplied)

16. The contention of the learned Additional G.P. therefore to contend that the decisions of **Jaggo** (supra) and **Bhola Nath** (supra) were of a bench of lesser strength than that of **Umadevi & Ors**. (supra) deserves to be rejected, inasmuch as the principles of **Umadevi & Ors** (supra) have been followed in the spirit in which they have been rendered.

17. The decision in **Madhukar Bhavanrao Sadgir** (supra) has also been followed in a series of decisions, which learned counsel on behalf of the Petitioners has sought to place reliance on, and as has been enumerated in paragraph No. 9 above, to contend that the regularization of the services of the Petitioners ought not to be withheld. We are in agreement with the aforesaid contention, and considering the series of decisions following the ratio in **Madhukar Bhavanrao Sadgir** (supra), we are persuaded to hold that in the present facts also, the aforesaid decision would squarely apply. Further, in the first round of litigation also, which the present Petitioners had sought to bring to this Court, a Co-ordinate Bench of this Court in **Namdeo Tukaram Dhonnar and Others** (supra) had applied the principle of **Madhukar Bhavanrao Sadgir** (supra) and granted financial benefits of arrears of pay scale in respect of the Petitioners therein, who had completed ten years of employment. The order dated 30th January 2025 in **Namdeo Tukaram Dhonnar and Others** (supra) passed by the Co-ordinate Bench of this Court is

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reproduced below :

> 18. In view of the above, these Writ Petitions are partly allowed in the light of the foregoing conclusions and we further direct as under :-
>
> [a] The procedure devised in Madhukar Sadgir(supra), shall be followed by the State Government and appropriate scrutiny shall be carried out with regard to those Petitioners who have completed 10 years of service, within the same time line as was granted in Madhukar Sadgir(supra).
>
> [b] We further direct that the letter issued by the Under Secretary, Maharashtra Government, Tribal Development dated 25th May, 2023 would not be applicable to those who have completed 10 years in service. The issue of retrospective application is left open to be considered in a challenge to the said letter, if posed by any aggrieved litigant in a substantive petition.
>
> [c] Lastly, we direct the State Government to consider all these cases for payment of the minimum pay in the lowest grade inclusive of dearness allowance as is payable to the regular/permanent employees, notwithstanding whether they have completed 10 years or not.

18. Insofar as the contention of learned Additional G.P. that no advertisement had been published prior to the selection process of the Petitioners, it is clear that in the case of **Madhukar Bhavanrao Sadgir** (supra) also the aforesaid situation had been taken into consideration, and even when the advertisement had not been issued for appointment, the Petitioners had been regularized. In view thereof, this argument of learned counsel on behalf of the Respondent-State deserves to be dismissed at its very threshold.

19. We are also of the view that there were GRs dated 12th April 2022, 2nd December 2022, 6th February 2023, 24th June 2024, and 8th July 2023 prescribing regularization prior to passing the impugned orders, and therefore, the impugned orders on this ground also are liable to be set aside. Considering the aforesaid settled position in law, we are of the firm view that present petition deserves to succeed. We, therefore, pass the following order in the interests of justice:-

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ORDER

(i) The impugned orders dated 13th January 2026, and 14th January 2026 issued by Respondent No. 3-Additional Commissioner, Tribal Development, Thane Region, Thane are hereby quashed and set aside;

(ii) The Respondents shall regularize the services of the Petitioners who have completed ten years of service w.e.f. the date they completed ten years of service, or from the date of filing of this writ petition, whichever is later;

(iii) The Petitioners who have been terminated after ten years of service and during the pendency of this writ petition shall be reinstated from the date they filed the writ petition, or from the date of completion of ten years of service, whichever is later;

(iv) The Petitioners shall be granted financial benefits from the date of completing ten years of service, or from the date of filing of the writ petition in the earlier round of litigation (Writ Petition No. 6693 of 2023), whichever is earlier;

(v) The aforesaid directions to be complied by the Respondents within a period of **three weeks** from the date this order is made available to the Respondents by the Petitioners;

(vi) Rule is made absolute in the above terms. The writ petition is disposed of. No costs.

(AARTI SATHE, J.) (G.S.KULKARNI, J.)

M.S.Thatte

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