

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.87 OF 2021
(JAGRUK NAGARIK MANCH, THROUGH ITS PRESIDENT VERSUS THE
STATE OF MAHARASHTRA AND OTHERS)

Mr.P.P.Kothari, Advocate for the petitioner.
Mr.S.G.Karlekar, AGP for State.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : SEPTEMBER 30, 2021

PER COURT :

1. The petitioner prays that this petition be registered as a PIL. It is contended that the petitioner Jagruk Nagarik Manch is an NGO and consists of 66 members like doctors, engineers, professors and businessmen. List of the members have not been placed on record.
2. The petitioner has relied upon news reports published by Daily Lokmat, Mumbai Edition dated 05/05/2021, 07/05/2021 and 02/06/2021. By such news reports, daily Lokmat has highlighted the requirement of medical and paramedical staff, keeping in view that Covid-19 pandemic has posed a serious challenge.

3. Considering the above, the petitioner has put forth prayer clause B, C and D, which read as under :-

"B. By issuing appropriate writ, order or direction, the Respondent Nos. 1 to 3 may kindly be directed to fill up to optimum level, the vacancy in the public health department within a time frame, as found just and reasonable by this Hon'ble Court.

C. By issuing appropriate writ, order or direction, the Respondent Nos. 1 to 3 may kindly be directed to fill up to the optimum level, the vacancy in the public health department in the district of Ahmednagar, Maharashtra, within one month's time.

D. By issuing appropriate writ, order or direction, the Respondent Nos. 1 to 3 may kindly be directed to absorb all the contractual workers whilst filling the 16,000 vacant posts in the public health department in the State of Maharashtra."

4. In so far as prayer clause B and C are concerned, this Court is already dealing with PIL No.47/2021, which is initiated by Shri Syed Imtiaz Jalil, Honourable Member of the Parliament from the Aurangabad Constituency, who has also relied upon the news reports published by the Daily Lokmat, and has highlighted the need of filling up vacancies in the urban as well as rural health facilities of the State of Maharashtra. Over a period of 1½ years, several orders have been

passed by this Court and the learned AGP in the said matter has informed us that several appointment orders, actually hundreds of them, are in the process of being issued for making appointments. The Rural Health Department of the State of Maharashtra has also been arrayed as a respondent and this Court is also dealing with recruitment in Health Facilities, even in rural areas. As such, we are not inclined to entertain prayer clauses B and C.

5. The petitioner has prayed in Prayer clause “D” which is identical to prayer clause “E”, that this Court should issue a direction to the Government to absorb contractual workers while filling in 16,000 vacancies in the Public Health Department.

6. We are aware of the Law laid down by the Hon’ble Apex Court in **Secretary, State of Karnataka & Ors. vs. Uma Devi (3) & Ors., [2006(4) SCC 1]**, prohibiting back door entries. The State Government cannot be compelled to absorb contractual workers, who have worked during the Covid pandemic under the fortuitous circumstances for about one year. Issuing such directions would amount to defeating the career prospects of several citizens who may not have worked as contractual employees.

Moreover, in PIL 47/2021, this Court is dealing with the issue of filling up vacancies in Rural Health Centres and Facilities, which has been highlighted by Daily Lokmat.

7. As such, multiple PILs' in our view do not render any assistance unless a different issue, which is worth being considered in a PIL, is raised before us. Directing absorption of contractual workers, who have occasionally worked during the Covid- Pandemic, is not warranted. The issue of recruitment on vacancies high lighted in PIL 47/2021, would take care of this aspect.

8. In view of the above, this petition No.87/2021, stands rejected.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)