

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.10686 OF 2022

... Sagar Ramchandra Pawar & Ors. v/s. Kalyan Dombivali Municipal Corporation and ors.	...Petitioners ...Respondents
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Mr.Kishor Patil a/w Jagdish G.Aradwad (Reddy) for the Petitioner.
Mr.A.S.Rao for Respondent No.1.
Mr.A.A.Alaspurkar, AGP for the State.

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**CORAM : A.A. SAYED &
ABHAY AHUJA, JJ.**

DATED : 29 APRIL 2022

P.C.:

Learned Counsel for the Petitioners has invited our attention to the judgment of the Supreme Court in **Manish Gupta and another v/s. President, Jan Bhagidari Samiti and ors.**, 2022 SCC OnLine SC 485. Para 12 of the said judgment reads as follows:

“12. A perusal of the advertisement dated 24th June, 2016 issued by the Principal, Government Kamla Raja Girls Post Graduate Autonomous College, Gwalior, which is at Annexure P-2 of the Appeal Paper book and the advertisement dated 2nd July, 2016 issued by the Principal, SMS Government Model Science College, Gwalior, M.P., which is at Annexure P-3 of the Appeal Paper Book, would show that the appointments were to be made after the candidates had gone through due selection procedure. Though Shri Nataraj, learned ASG has strenuously urged that the appointments of the appellants were as guest lecturers and not as ad hoc employees, from the nature of the advertisements, it could clearly be seen

that the appellants were appointed on ad hoc basis. It is a settled principle of law that an ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed. Reliance in this respect can be placed on the judgment of this Court in the case of Rattan Lal v/s. State of Harayana, (1985) 4 SCC 43 and on the order of this Court in the case of Hargurpratap Singh v/s. State of Punjab, (2007) 13 SCC 292.”

2. Learned Counsel for the Petitioners submits that the Petitioners, who are appointed after due process of law initially for temporary period of 3 months on contractual basis and continued later, cannot be replaced by the Respondent-Corporation by another set of ad hoc employees.
3. Learned Counsel for the Respondent-Corporation submits that the Petitioners were only employed temporarily for the Covid pandemic period and the Respondent-Corporation has only outsourced manpower of the Health Department.
4. Considering the fact that the Petitioners are not being replaced by regular employees, we are inclined to grant ad-interim relief in terms of prayer clause (g) of the Petition. We accordingly direct that until the next date, there shall be ad-interim relief in terms of prayer clause (g), which reads as follows:

“(g) Pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to stay execution, operation and implementation of the impugned Order dated 19-04-2022 of the Respondent No.1 Kalyan Dombivali Municipal Corporation, terminating the services of the Petitioners as Ward Boys w.e.f. 30-04-2022.”

5. Let the Respondent-Corporation file Affidavit-in-Reply by 15 June 2022 with copy to the other side. Rejoinder, if any, before the next date.

6. Stand over to 27 June 2022.

(ABHAY AHUJA,J.)

(A.A.SAYED, J.)