IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

WRIT APPEAL No. 1345 of 2026

CNR No.: MPHC010292122026

DR. BHAWANI SINGH AND ANR

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Devansh Verma - Advocate for the petitioner.

Shri Rajesh Tiwari - Govt. Advocate for the respondent/State.

WITH

WRIT APPEAL No. 872 of 2026

CNR No.: MPHC010200432026

DR. KAMAL PRATAP SINGH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Colin Gonsalves - Senior Advocate (through video conferencing) with Shri Devansh Verma - Advocate appearing on behalf of the appellants.

Shri Rajesh Tiwari - Govt. Advocate for the respondents/State.

WRIT APPEAL No. 873 of 2026

CNR No.: MPHC010200442026

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DR. VINAYAK SINGH TOMAR AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Colin Gonsalves - Senior Advocate (through video conferencing) with Shri Devansh Verma - Advocate appearing on behalf of the appellants.

Shri Rajesh Tiwari - Govt. Advocate for the respondents/State.

WRIT APPEAL No. 1113 of 2026

CNR No.: MPHC010244502026

BEENA FERNANDEZ.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Ravi Malgani - Advocate for the appellant.

Shri Rajesh Tiwari - Govt. Advocate for the respondents/State.

WRIT APPEAL No. 1176 of 2026

CNR No.: MPHC010258242026

DR. ANUPAMA AGNIHOTRI

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Arun Kumar Singh - Advocate for the appellant.

Shri Rajesh Tiwari - Govt. Advocate for the respondents/State.

WRIT APPEAL No. 1344 of 2026

CNR No.: MPHC010292092026

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DR. SARASWATI DUBEY AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Devansh Verma - Advocate for the petitioner.

Shri Rajesh Tiwari - Govt. Advocate for the respondent/State.

WRIT APPEAL No. 1605 of 2026

CNR No.: MPHC010335432026

DR.JITENDRA KUMAR SHUKLA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Satya Prakash Mishra - Advocate for the appellants.

Shri Rajesh Tiwari - Govt. Advocate for the respondents No.1-4/State.

Smt. Nirmala Nayak - Advocate appearing on behalf of respondent No.5.

Reserved on : 26.10.2026

Pronounced on : 20.11.2026

ORDER

Per*: *Justice Vivek Rusia

Since all the aforesaid writ appeals arise out of a common controversy and involve substantially identical questions of facts and law, they are being heard and decided together by this common order. For the sake of convenience, the facts are being taken from the lead appeal i.e., W.A. No.1345/2026.

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2. The Writ Appeal is filed under Section 2(1) of M.P. Uccha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005 assailing the order dated 12.03.2026 passed by learned Single Judge in W.P. No.6665/2025.

FACTS OF THE CASE

3. The appellants in the present batch of writ appeals are educators, who have been engaged on contractual basis against the vacant posts of Assistant Professor, Sports Officer and Librarian in various Government Colleges functioning under the Higher Education Department, Government of Madhya Pradesh. The appellants claim to have rendered continuous services for considerable periods, ranging from approximately 10 to 30 years, in their respective institutions. The grievance raised by the appellants in the respective writ appeals primarily relates to the regularization/absorption in the Government service, parity in pay and other service benefits at par with with regularly appointed Assistant Professor, Sports Officer and Librarian, as well as protection against their displacement or discontinuation from service.

4. The case set up by the appellants before the learned Single Judge was that their initial appointments were not made through any backdoor entry or arbitrary arrangement, but pursuant to advertisements issued by the Competent Authorities and after following a selection procedure. According to them, the selection process adopted for their engagement substantially resembled the process followed for regular recruitment. They further asserted that they possessed the requisite educational qualifications prescribed for the respective posts at the time of their initial appointment.

5. It was the further case of the appellants that pursuant to their selection and engagement, they have continuously discharged their duties in various Government Colleges for periods extending up to 20 to 30 years. Their services

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have allegedly been utilized by the respondents for the regular functioning of the educational institutions and for discharging the academic and other responsibilities attached to the respective posts. The appellants also asserted that their duties were not confined merely to occasional or temporary academic assignments.

6. Apart from performing their respective duties as Assistant Professors, Sports Officers and Librarians, several of them were allegedly entrusted with additional responsibilities, including administrative and institutional functions at par eith regulars incumbents . It was specifically contended that some of the appellants had also functioned as in-charge of educational institutions and had discharged responsibilities beyond their primary academic assignments. According to the appellants, despite their long-standing engagement and the nature of duties performed by them, the respondent Authorities continued to treat them as contractual employees and denied them the benefits and service conditions available to regularly appointed employees. They contended that the State had continuously utilized their services for the functioning of Government educational institutions without extending corresponding service benefits, including appropriate remuneration, allowances, continuity of service and other consequential benefits.

7. The appellants, therefore, approached this Court by filing separate writ petitions seeking appropriate directions for regularization/absorption of their services and grant of consequential service benefits. They also sought parity in pay and service conditions with regularly appointed employees holding corresponding posts and protection against arbitrary discontinuation or displacement. The learned Single Judge, after considering the respective writ

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petitions, passed the orders impugned in the present batch of writ appeals.

8. Being aggrieved by the rejection of their claims, the petitioners have preferred the present writ appeals, raising common and overlapping grounds concerning the manner of their initial appointment, the nature and duration of their services, the existence of sanctioned posts and the applicability of the judgments of the Supreme Court relied upon by them. A principal ground raised in the present batch of appeals is that the learned Single Judge has not properly appreciated the distinction between contractual employees appointed through an advertised selection process and persons, who have entered service without following any prescribed procedure. According to the appellants, their initial appointments were made after advertisement and selection, and they possessed the requisite qualifications for the respective posts. Therefore, their cases could not have been rejected by treating them as persons appointed through backdoor entry.

9. Another common grievance raised by the appellants is with regard to the observations made in the impugned orders concerning the engagement of guest faculty for one academic session. According to the appellants, their engagement cannot be equated with that of guest faculty members, as they had been continuously working for several years and were discharging responsibilities essential to the functioning of the Government Colleges. They have, therefore, contended that the learned Single Judge has proceeded on an incorrect appreciation of the nature of their engagement.

10. The appellants have also raised a grievance regarding the practice allegedly followed by the respondent Authorities of replacing existing contractual employees by fresh contractual appointees or by transferring regularly appointed employees against the posts occupied by them. According to the appellants, such

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a practice results in repeated displacement of persons, who have already rendered long years of service and causes serious prejudice to their livelihood and continuity of employment. It has also been pleaded that immediately after the impugned orders became available online, the respondent Authorities commenced steps for discontinuation/termination of the services of the appellants.

11. According to them, such action would frustrate the purpose of filing the present appeals and render the appellate proceedings ineffective unless appropriate interim protection is granted. In the aforesaid factual background, the appellants have preferred the present batch of writ appeals seeking setting aside of the respective impugned orders and directions to the respondent Authorities to regularize/absorb their services in accordance with law, with consequential benefits. They have also sought parity in wages and service conditions with regularly appointed employees and protection against termination, displacement or replacement by fresh recruits or transferred regular employees during the pendency of the appeals.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

12. Shri Gonsalve learned senior counsel appearing for the appellants, in the respective writ appeals, have advanced common submissions assailing the impugned orders passed by the learned Single Judge. It is submitted that the learned Single Judge has failed to appreciate the actual nature of the appointments of the appellants, the procedure followed for their selection, the qualifications possessed by them and the long and uninterrupted services rendered by them in various Government Colleges under the Higher Education Department.

13. Learned senior counsel submits that the appellants were not appointed through any backdoor entry, but their appointments were made pursuant to advertisements issued by the Competent Authorities and after following a

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selection process. It is further submitted that the appellants possessed the requisite educational qualifications prescribed for regular recruitment to the respective posts of Assistant Professor, Sports Officer and Librarian. It is argued that the appellants have continued to discharge their duties for periods ranging from 10 to 30 years against vacant sanctioned posts and that their services have been continuously utilised by the State Government for the functioning of its educational institutions. Therefore, according to learned counsel, their cases were required to be considered by applying the principles laid down by the Supreme Court in its various decisions dealing with regularisation of long-serving employees.

14. Learned senior counsel further submits that the learned Single Judge has not correctly appreciated the judgments of the Supreme Court cited on behalf of the appellants. It is contended that the decisions have been distinguished in a cursory manner without examining their factual background and the legal principles laid down therein. According to learned counsel, the *ratio decidendi* of the judgments relied upon was required to be considered in the context of the facts and circumstances of the present cases rather than distinguishing them merely on the basis of minor factual differences.

15. Particular reliance has been placed upon the decisions of the Supreme Court in ***Secretary, State of Karnataka v. Umadevi*** **reported in (2006) 4 SCC 1** , ***Jaggo v. Union of India and Others*** **reported in 2024 INSC 1034** and ***Somesh Thapliyal and Another v. Vice Chancellor, H.N.B. Garhwal University and Another*** **reported in (2021) 10 SCC 16** besides other judgments concerning the rights of employees, who have rendered long-standing services in educational institutions. Learned senior counsel submits that the principles laid down in the

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Signing time: 20-11-2026 14:54:50

aforesaid decisions were not properly appreciated by the learned Single Judge, while rejecting the claims of the appellants. It is further argued that the learned Single Judge has erroneously treated the appellants' engagement as comparable to that of guest faculty members appointed for one academic session.

16. According to learned senior counsel, the appellants were not guest faculty members and their engagement was of a substantially different nature, having continued uninterruptedly for several years. It is submitted that several appellants were also entrusted with administrative responsibilities, including functioning as in-charge of educational institutions, which demonstrates the nature and extent of services actually rendered by them. Learned senior counsel further contend that the observations made in the impugned orders to the effect that the appellants were aware that they were not part of the regular establishment and that no benefit could accrue to them do not reflect the actual nature of their engagement.

17. It is submitted that the appellants have discharged continuous duties essential to the functioning of Government Colleges for several years and their claims were required to be examined by considering the actual responsibilities performed by them. It is also submitted that the respondent Authorities cannot be permitted to replace one contractual employee with another contractual employee, particularly when the existing employees have already rendered long years of service. Learned senior counsel contends that the practice of displacing contractual employees upon appointment of fresh contractual employees or transfer of regular employees is arbitrary and results in uncertainty and insecurity of service.

18. Learned senior counsel further submits that the appellants have performed duties comparable to those discharged by regularly appointed

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Signing time: 20-11-2026 14:54:50

Assistant Professors, Sports Officers and Librarians. Despite this, they have been denied corresponding wages, allowances and other service benefits. It is, therefore, contended that their claim for parity in pay and service conditions deserves consideration in the light of the doctrine of equal pay for equal work, subject to the applicable legal principles and the nature of duties performed.

19. It is further argued that the role played by teachers and other academic personnel in the functioning of educational institutions has been recognised by the Supreme Court in several decisions. Learned counsel submit that the appellants, who have devoted a substantial part of their professional lives to Government educational institutions, are entitled to be treated with dignity and their claims ought to be examined in accordance with the principles governing fairness and equality in public employment.

20. Lastly, Shri Gonsalve, learned senior counsel, submits that the appeals require urgent consideration as the respondent Authorities have allegedly initiated steps for discontinuation of the appellants' services immediately after the impugned orders were passed. It is contended that such discontinuation or displacement during pendency of the appeals would seriously prejudice the appellants and may render the appeals infructuous. On the strength of the aforesaid submissions, learned counsel appearing for the appellants pray that the writ appeals be allowed, the respective impugned orders passed by the learned Single Judge be set aside, and the respondent Authorities be directed to regularize/absorb the appellants in service in accordance with law, with all consequential benefits, including continuity of service and protection of seniority.

21. It is lastly prayed that the appellants be granted parity in pay, allowances and other service conditions with regularly appointed Assistant Professors, Sports Officers and Librarians, to the extent permissible under law. A

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further prayer has been made to restrain the respondents from terminating, discontinuing or displacing the appellants by appointing fresh recruits or transferring regular employees against the posts presently occupied by them, until final adjudication of their claims.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS/STATE

22. Per contra, learned Advocate General appearing for the respondents-State, on the basis of the return and submissions made orally in the respective appeals, opposed the prayer made by the appellants and supported the orders passed. That it is well settled law that courts should refrain from meddling into policy matters of the State and the same shall not be interfered with. As is held by the Hon'ble Supreme Court in ***BALCO Employees Union (Regd.) vs Union of India*** reported in ***(2002) 2 SCC 333*** and the case of ***Directorate of Film Festivals v. Gaurav Ashwin Jain*** reported in ***(2007) 4 SCC737***. Accordingly, learned counsel for the respondents prayed for dismissal of the writ appeals.

Appreciation & Conclusions

23. The appellants are working against the vacant post of Assistant Professors which is governed by the M.P.Educational Service (Collegiate Branch) Recruitment Rules 1990(as amended from time to time). Admittedly, there is no provision in the rules for appointment by way of regularisation of guest faculty. The State Government, in the recent amendment to the rules under Rule 11, Sub-Rule 8, dated 31/12/2024, has specifically provided 25% reservation, weightage, and other relaxations, including age relaxation. Most incumbents, while working as Guest Faculty, have availed the opportunity to participate in the selection process for recruitment of Assistant Professors through MPPSC with various relaxations.

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These appellants before us cannot participate in the selection process because they have crossed the upper age limit prescribed under the rules for the post of Assistant Professors. Therefore, even otherwise, they have become ineligible to be appointed by regularisation to the post of Assistant Professor.

24. That Article 309 (Proviso) of the Constitution of India empowers the Governor of Madhya Pradesh to frame statutory rules regulating the recruitment and conditions of service of persons appointed to State services and posts until the State Legislature enacts a law. Articles 315 to 323 of the Constitution of India govern the constitution, functions, and mandatory consultation with the Madhya Pradesh Public Service Commission (MPPSC). Articles 14, 15, and 16 of the Constitution of India guarantee equality of opportunity in public employment and empower the State to provide reservations. In the State of M.P., there are certain primary State Acts (Statutes) Governing Appointments such as (i) Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 (Act No. 21 of 1994) the primary legislation governing vertical reservation for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) in direct recruitment and promotion across State departments, local bodies, and statutory corporations, (ii) the Rights of Persons with Disabilities Act, 2016 (Central Act) & M.P. Rules thereunder for providing horizontal reservation (4%) and post-identification for persons with benchmark disabilities in State government appointments,(iii) M.P. Civil Services (Special Provision for Appointment of Women) Rules, 1997 which provides 30% / 33% horizontal

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Signing time: 20-11-2026 14:54:50

and compartment-wise reservation for women in direct recruitment across State services and EWS Reservation Policy (GAD Circular dated 02.07.2019), implementing 10% reservation for Economically Weaker Sections in State appointments. Regularisation of these guest faculty members in the services of higher education would result in non-compliance and violation of the above statutory rules.

25. These guest faculty members cannot be directed to be regularised against the sanctioned vacant post without observing the reservation for SC/ST/OBC, persons with disabilities and reservation for women. Hence, the writ Court has rightly declined to issue a writ of mandamus to the State Government.

26. Before parting with this case, we would like to observe our serious concern about the plights of these appellants, who are less than 300 in number, as compared to 12,000 sanctioned posts in 571 colleges and now have become overage while working as guest faculty members in the government colleges for the last 2-3 decades. It is to be noted that the State Governments did not recruit faculty members in the Government colleges for years together and kept on engaging guest faculties time to time. The Government has been saving crores of revenue by not recruiting and paying regular salaries to Assistant Professors and Lecturers and has been taking work from these guest faculty members by paying them almost 1/4th meagre salary of Rs. 50,000 without any statutory benefits such as PF, Gratuity, etc., (as compared to Rs. 1 lakh + statutory benefits for regular employees). These guest faculties have been doing the job of regulars

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Assistant Professors/ lecturers years together although they are now being considered for regular recruitments with some extra weightage and reservations but what about those who have become overage while working as Guest Faculties? They have a legitimate expectation from the Government that some policy like Vinimiyatikaran or Sthaikaran dated 7.10.2016, as had been done in the case of daily wagers, would be framed. In fact, the government should continue these guest faculty members as a separate class in the Government colleges by utilising their rich experience of teaching, as academicians, lecturers and professors are the intellectual backbone of any nation. For the last so many years, they have been working in the colleges situated in small cities and remote areas where regular teachers would not like to go and work. The UGC Revised Guidelines dated 28.1.19 also state that "The selection procedure for appointing Guest Faculty shall be the same as that of regularly appointed Assistant Professors." They have been engaged as Guest Faculty under the policy framed by the Higher Education Department from time to time. Hence, their initial engagements cannot be said to be per se illegal or irregular. It is, at the most, a stop-gap arrangement till filling the post under the procedure prescribed under the recruitment rules.

27. It is important to reproduce the observations made by the Apex Court in the matter of **Jaggo Vs Union of India [2024 INSC 1034]**.

> *12 Despite being labelled as "part-time workers." the appellants performed these essential tasks on a daily and continuous basis over extensive periods. ranging from over a decade to nearly two decades. Their__engagement was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure. underscoring the indispensable nature of their work.*

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13. ...The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled...

16. The appellants' consistent performance over their long tenures further solidifies their claim for regularization. At no point during their engagement did the respondents raise any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years, and their remuneration, though minimal, was incrementally increased which was an implicit acknowledgment of their satisfactory performance. The respondents' belated plea of alleged unsatisfactory service appears to be an afterthought and lacks credibility.

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.

28. The Government should come up with a policy to regularise the services of guest faculty as a separate class in addition to the regular post in the government colleges. As has been done by bringing the Policy dated 10.7.2016 designating daily wagers as a distinct intermediate cadre ("Sthai Karmi"), still short of regular government service. With the hope and trust that these appeals are accordingly disposed of.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

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