

## **The Bombay High Court holds that service bonds, contractual obligations, or administrative instructions cannot curtail fundamental right to maternity leave**

In a recent ruling, the Division Bench of the Bombay High Court, Nagpur Bench (“**Bombay HC**”) in *Dr. Meenakshi Muthiah v. State of Maharashtra*<sup>1</sup>, observed that the right to maternity leave is an integral facet of a woman’s fundamental right to life under Article 21 of the Constitution of India, 1950 (“**Constitution**”) and cannot be curtailed by service bonds, contractual obligations, or administrative instructions. The Bombay HC emphasised that maternity leave cannot be treated as a break in service and that penalising a woman for availing maternity leave would undermine the dignity of motherhood and the constitutional mandate of social justice.

### **Brief facts**

The Directorate of Medical Education and Research, State of Maharashtra (“**2<sup>nd</sup> Respondent**”) had published a vacancy list *inter alia* for the position of ‘Assistant Professor – Conservative Dentistry’ in the Government Dental College and Hospital, Nagpur (“**3<sup>rd</sup> Respondent**”) and Dr. Meenakshi Muthiah (“**Petitioner**”), being a qualified dentist with a post-graduate degree in ‘Conservative Dentistry’, applied for the position. Accordingly, the 2<sup>nd</sup> Respondent recommended the Petitioner for the post of ‘Assistant Professor – Conservative Dentistry’ and the 3<sup>rd</sup> Respondent, *vide* order dated December 12, 2023, appointed the Petitioner to the said position for a bond period of 365 (three hundred and sixty-five) days with effect from December 11, 2023 to December 10, 2024, and the Petitioner joined services on December 13, 2023 in the 3<sup>rd</sup> Respondent college.

Subsequently, the Petitioner contended that she learnt of her pregnancy in March 2024 and made an application seeking grant of maternity leave from May 1, 2024 till September 30, 2024. Upon giving birth on June 17, 2024, the Petitioner requested permission from the 3<sup>rd</sup> Respondent to complete her bond period which was up to December 12, 2024, while also informing the 3<sup>rd</sup> Respondent that she was not paid her salary during her maternity leave.

On December 18, 2024, the 2<sup>nd</sup> Respondent issued a letter to the 3<sup>rd</sup> Respondent stating that the Petitioner’s bond completion certificate can be issued only if the Petitioner completes the period of her maternity leave additionally, on her return to service and if the Petitioner fails to do so, a penalty would be levied. Owing to the Petitioner’s alleged non-completion of bond period, the 3<sup>rd</sup> Respondent issued an order of penalty amounting to INR 23,58,403 (Indian Rupees twenty-three lakh fifty-eight thousand four hundred and three). Aggrieved, the Petitioner filed a writ petition against the Respondents, challenging the penalty imposed on her.

<sup>1</sup> Writ Petition No. 3319 of 2025 (decided on February 25, 2026)

## Issue

The Bombay HC adjudicated upon the following issues:

1. whether right to maternity leave is a fundamental right; and
2. whether the right to maternity leave overrides regulations or any instructions or guidelines?

## Findings and analysis

The Bombay HC noted that maternity leave refers to absence from employment of a woman before and after childbirth and is governed by the Maternity Benefit Act, 1961 (“**Maternity Act**”). The law provides for pre-natal leave, post-natal leave, protection from dismissal during pregnancy and the right to return to the same or equivalent position held by a woman prior to maternity leave. The Bombay HC, referring to a ruling by the Delhi HC in *Commissioner of Police v. Ravina Yadav*<sup>2</sup>, noted the physiological and psychological impact of pregnancy and early infancy on a woman. It observed that maternity leave protects not only the mother’s dignity but also the child’s neurological and emotional development, acknowledging that early maternal bonding is crucial for long-term cognitive and emotional health. Maternity leave is intended to achieve the object of ensuring social justice to women and children.

The Bombay HC, while referring to a judgment by the Hon’ble Supreme Court of India in *K. Umadevi vs. Government of Tamil Nadu and Ors.*<sup>3</sup>, placed emphasis on the rights granted under the Universal Declaration of Human Rights, 1948 (“**UDHR**”) as well as the Maternity Protection Convention, held in Geneva in 2000, which affirmed that maternity protection has been long recognised as an important facet of international labour standards, safeguarding maternal and child health. The Supreme Court, in the aforementioned judgment, further observed that this applies to employed women including those involved in atypical forms of work and that it is unlawful for an employer to terminate the employment of a woman due her pregnancy.

The Bombay HC, upon considering the arguments placed on behalf of the Petitioner and the Respondents, ultimately decided matter in favour of the Petitioner doctor, by stating that the principle of right to life is enshrined in Article 21 of the Constitution, held that right to maternity leave is an integral facet of every woman’s fundamental right to life. Therefore, maternity leave cannot be construed as a break in service and consequently employers cannot use bonds to penalise a woman for exercising her right to motherhood and overriding a woman’s fundamental right to maternity leave. The Bombay HC firmly affirmed that any contract, agreement or bond that penalises a woman for taking maternity leave or denies a woman such right, to that extent, will be considered as inconsistent towards Section 27 of the Maternity Act<sup>4</sup>.

## Conclusion

The Bombay HC’s decision reinforces the principle that maternity leave is not merely a statutory entitlement but an integral aspect of a woman’s fundamental right to life and dignity under Article 21 of the Constitution. The Bombay HC clarified that maternity leave cannot be treated as a break in service and that contractual obligations such as service bonds cannot override constitutional protections granted to women. By relying on constitutional guarantees, international human rights norms, and the provisions of the Maternity Act, the Bombay HC emphasised that penalising a woman for exercising her right to motherhood would be inconsistent with the objectives of social justice and gender equality. Consequently, the ruling serves as an important precedent affirming that employment regulations, agreements, or institutional guidelines cannot curtail a woman’s right to maternity leave, thereby strengthening legal protection for working mothers in India.

<sup>2</sup> (2024) SCC OnLine Del. 4987

<sup>3</sup> (2025) 8 SCC 263

<sup>4</sup> Section 27 of the Maternity Act states that the provisions of the Maternity Act will have overriding effect over any inconsistent law, agreement, contract, or service condition.

## Employment Practice

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### This Prism has been prepared by:



**Bhavya Sriram**  
Partner



**Abheejit  
Vijayaraghavan**  
Associate



**Pratiksha Easwar**  
Associate



**Mahemaa  
Senthilkumar**  
Associate



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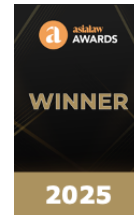
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For more details, please contact [km@jsalaw.com](mailto:km@jsalaw.com)

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