

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 4793 OF 2015
WITH WP/6952/2015 WITH WP/7830/2015 WITH
WP/8048/2015**

GANESH RAMA NAWALE AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. B.S. Shinde h/f Mr. Latange
V.P.

AGP for Respondent/State : Mr. C.V. Dharurkar
Advocate for Respondent nos. 2 to 4 : Mr. Suryawanshi
Prashant D.

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: October 13, 2015

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PER COURT :-

These petitions take exemption to the letter dated 5th April, 2015 being outward No.Pra-VI-1A/Kavi/15/Beed issued by the Education Officer (Primary), Zilla Parishad, Beed to All the Block Education Officer, Zilla Parishad, Beed, the letter dated 08.04.2015 being outward no. BEOS/Astha/2/470/2015 issued by the Block Education Officer, Panchayat Samiti, Georai, Dist. Beed and the letter dated 09.04.2015 issued by the Block Education Officer, Panchayat Samiti, Majalgaon, Dist. Beed to the extent of petitioners to concerned Head Master.

2. The learned counsel appearing for the petitioners submits that, the impugned communication is issued and the deductions from the salary of the petitioners started without hearing the petitioners. The learned counsel appearing for the petitioners invited our attention to the reported judgment of the Hon'ble Supreme Court in the case of **Syed Abdul Qadir & ors. V/s State of Bihar and ors.**¹ and submits that, in case the excess amount is wrongly paid by the Authorities, the said persons cannot be held responsible and such amount cannot be recovered. He further submits that, the recovery has been started without hearing the petitioners and before passing the impugned order, the petitioners ought to have been heard.

3. On the other hand, the learned counsel appearing for the respondents, relying upon the averments made in the Petition, submits that, there were irregularities in disbursement of the excess amount than permissible towards honorarium and said excess amount has been paid to the petitioners and other similarly situated teachers.

1 2009(3) SCC 475

Upon realizing the said mistake, the respondents are now deducting Rs. 3,000/- per month from the salary of the petitioners and similarly situated teachers.

4. We have considered the submissions advanced by the learned counsel appearing for the petitioners and the learned counsel appearing for the Respondent- Zilla Parishad. It is not in dispute that, the petitioners are receiving more than Rs. 20,000/- towards salary per month and out of that, Rs. 3,000/- is being deducted on account of excess payment towards honorarium for the period June, 2013 to March, 2014. Therefore, we do not see any reason to hold that, the petitioners will face undue financial hardship due to deduction of such payment. It appears that, within 13 months of such excess payment, the impugned communications are issued and immediate action has been taken. In that view of the matter, we do not see any reason to entertain these Petition. All three petitions stand rejected.

5. At this stage, the learned counsel appearing for the Respondent - Zilla Parishad submits that, the Respondent will not deduct more than Rs. 3,000/- per

month and also will initiate recovery against other similarly situated teachers, who have received excess honorarium.

(**A.M. BADAR, J.)**

(**S.S. SHINDE, J.**)

SGA/-

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