

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.172 OF 2014

Suryakant Manikrao Deshmukh and another Petitioners

versus

The State of Maharashtra through
The Chief Secretary and others Respondents

Mr.P.M.Patil for Petitioners.

Mr.A.B.Vagyani, Government Pleader with Mr.V.N.Sagare, AGP
for Respondents-State.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 2 February 2015

PC :

In this Public Interest Litigation, the Petitioners, two in numbers, have challenged the constitutional validity of Section 3(1)(a) and (b) of the Maharashtra Legislature Members' Pension Act, 1976 (hereinafter referred to as Maharashtra Act No.I of 1977), as amended by Maharashtra Act No.XXIV of 2013. Prior to the amendment, the pension payable

to the members of the Legislature in the State of Maharashtra was Rs.25,000/- per month. By the impugned amendment, the amount has been raised to Rs.40,000/- per month.

2. Section 3 of the Maharashtra Act No.I of 1977 as originally enacted read as under :

"3. Pension payable to the members :

(1) There shall be paid a pension of one thousand rupees per month to every person who on his election or nomination as a member of the State Legislature has taken or takes oath as such member of either House of State Legislature.

Provided that, where any person has served as a member for a period exceeding five years, there shall be paid to him an additional pension of one hundred rupees per month for every year in excess of five years :"

3. In the additional affidavit-in-reply dated 13 January 2015, filed on behalf of respondent nos.1,2 and 5, the respondents have pointed out the details as to initial amount of pension as per Maharashtra Act No.I of 1977 and the amounts of pension pursuant to the subsequent amendments, which read as under :

Sr. Nos.	Date/Year of Enactment and Amendment to Mah.Act No.I of 1977	Amount of Pension per month/Rs.	Additional Pension per month for more than 5 years of service/Rs.
1	Before 1993	1,000/-	100/- (for every additional year)
2	01/08/93	1500/-	200/-
3	01/05/99	2,000/-	-
4	01/09/00	4000/-	-
5	01/01/05	6,000/-	500/-
6	01/04/07	8,000/-	-
7	01/05/08	10,000/-	750/-
8	01/05/09	15,000/-	1,000/-
9	01/05/11	25,000/-	1,000/-
10	08/01/13	40,000/-	2,000/-

4. Section 3 of Maharashtra Act No.XXIV of 2013 has been amended as under :

"2. Amendment of Section 3 of Maharashtra Act No.I of 1977 :

In Section 3 of the Maharashtra Legislature Members' Pension act, 1976 (hereinafter referred to as "the Principal Act"), in sub-section (1)-

(a) for the words "twenty five thousand rupees", the words "forty thousand rupees" shall be substituted;

(b) in the first proviso, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted."

5. In the affidavit-in-reply dated 8 October 2014, an explanation has been given for raising the amount of pension and the amount of additional pension for additional service rendered by the members of Legislatures beyond the period of five years. It is also pointed out in the additional affidavit-in-reply dated 13 January 2015 that pension is also being paid to the members of Legislatures of other States, such as, Aasam, Himachal Pradesh, Karnataka, Madhya Pradesh, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Members of Parliament. With effect from 18 May 2009, the members of Parliament are also paid pension upon completion of their term.

6. It is pertinent to note that the provisions of Section 12B of Tamil Nadu Payment of Salaries Act (20 of 1951) providing for payment of pension to the members of State Legislature were challenged in **M/s.Lily Thomas Vs. State of Tamil Nadu**¹. A Division Bench of the Madras High Court upheld the legislative competence of the State Legislature to grant the pension to the members of State Legislature.

7. It is necessary to note that in this petition, the Petitioners do not challenge the constitutional validity of Maharashtra Act No.I of 1977 (The Maharashtra Legislature Members' Pension Act, 1976) but only the amendments made by the Maharashtra Act No.XXIV of 2013 raising the amount of

¹ AIR-1986-Madras-290

pension from Rs.25,000/- p.m. to Rs.40,000/- p.m. and the amount of additional pension from Rs.1,000/- p.m. to Rs.2,000/- p.m.

8. What should be the amount of pension payable to the members of the State Legislature is a policy matter and this Court in exercise of its discretionary writ jurisdiction under Article 226 of the Constitution of India would not sit in appeal over that policy decision taken by the State Legislature. On this short ground alone, we are not inclined to entertain this Public Interest Litigation.

9. The PIL is, therefore, dismissed with no order as to costs.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)