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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6789 OF 2016

Chandrabhaga Machindra Dudhade.
Since deceased through legal heir
Machindra Murlidhar Dudhade,
Age : 67 years,
R/o Khadambe (BK), Tq.Rahuri,
District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.3688 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

Shakar Keru Vairal,
Age : Major, Occupation : Retired,
R/o Sade, Tq.Rahuri,
District Ahmednagar.

WITH

WRIT PETITION NO.3689 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

1 Mahadu Lahanu Hake,
Age : Major, Occu : Retired,
R/o Digras, Tq.Rahuri,
District Ahmednagar.

2 Smt.Kusum Laxman Adsure,
Age : Major, Occu : Retired,
R/o Warwandi, Tq.Rahuri,
District Ahmednagar.

3 Smt.Malan Ravaji Pawar,
Age : Major, Occupation : Retired,
R/o Khadamba (Bd), Tq.Rahuri,
District Ahmednagar.

4 Smt.Narmada Haribhau Bhagat,
Age : Major, Occu: Retired,
R/o Babhulgaon, Tq.Rahuri,
District Ahmednagar.

5 Tatyaba Dagadu Puri,
Age : Major, Occ : Retired,
R/o Gotumba Akhada, Tq.Rahuri,
District Ahmednagar.

WITH
WRIT PETITION NO.:3692 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

1 Smt.Saibai Anaji Shingade,
Age : Major, Occupation : Retired.
R/o Warwandi, Po.Mulanagar,
Tq.Rahuri, District Ahmednagar.

2 Smt.Dwarkabai Fakira Ugale,
Age : Major, Occupation : Retired.
R/o Dhamori,
Tq.Rahuri, District Ahmednagar.

3 Sampat Vithoba Gaikwad,
Age : Major, Occupation : Retired.
R/o Mulanagar,
Tq.Rahuri, District Ahmednagar.

4 Smt.Radhabai Baburao Nikalje,
Age : Major, Occupation : Retired.
R/o Digras,
Tq.Rahuri, District Ahmednagar.

5 Keru Rakhmaji Wagh,
Age : Major, Occupation : Retired.
R/o Farm Quarters,
Tq.Rahuri, District Ahmednagar.

WITH

WRIT PETITION NO.:3693 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

1 Chand Shaikh Chabu
Died Through L.Rs.
Subrabi Chabu Shaikh,
Age : Major, Occupation : Agriculture.
R/o Sade,
Tq.Rahuri, District Ahmednagar.

2 Smt.Tulsa Mahadu Hake,
since deceased through L.R.
Mahadu Lahanu Hake,
Age : Major, Occupation : Agriculture.
R/o Digras,
Tq.Rahuri, District Ahmednagar.

3 Sitaram Sakharam Gaikwad,
since deceased through L.R.
Indubai Sitaram Gaikwad,
Age : Major, Occupation : Agriculture.
R/o Gotumba Akhada,
Tq.Rahuri, District Ahmednagar.

4 Smt.Chabubai Dada Patole,
since deceased through L.R.
Sunil Dada Patole,
Age : Major, Occupation : Agriculture.

R/o Digras,
Tq.Rahuri, District Ahmednagar.

- 5 Smt.Chandrabhaga Machindra Dudhade,
since deceased through L.R.
Machindra Murlidhar Dudhade,
Age : Major, Occupation : Agriculture.
R/o Khadambe (Bk.),
Tq.Rahuri, District Ahmednagar.

WITH
WRIT PETITION NO.:4378 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

- 1 Smt.Bhimabai Sukhdev Harishchandre,
Age : Major, Occupation : Retired.
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.
- 2 Smt.Chandrabhaga Rabhaji Deshmukh,
Age : Major, Occupation : Retired.
R/o Digras,
Tq.Rahuri, District Ahmednagar.
- 3 Smt.Manjula Tukaram Patil,
Age : Major, Occupation : Retired.
R/o Bhatkhand,
Tq.Pachora, District Jalgaon.
- 4 Smt.Rakhama Haushabapu Harishchandra,
Age : Major, Occupation : Retired.
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.
- 5 Smt.Rukhmini Chandrabhan Adsure,
Age : Major, Occupation : Retired.
R/o Warwandi, Po.Mulanagar,
Tq.Rahuri, District Ahmednagar.

**WITH
WRIT PETITION NO.:4379 OF 2016**

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

- 1 Smt.Bhamabai Madhav Mane,
Age : Major, Occupation : Retired.
R/o Dhamori (Bd.),
Tq.Rahuri, District Ahmednagar.
- 2 Smt.Indubai Dashrath Kadam,
Age : Major, Occupation : Retired.
R/o Baragaon Nandur,
Tq.Rahuri, District Ahmednagar.
- 3 Smt.Shakuntala Raghunath Kalhapure,
Age : Major, Occupation : Retired.
R/o Khadambe (bk),
Tq.Rahuri, District Ahmednagar.
- 4 Smt.Lilabai Bhima Salve,
Age : Major, Occupation : Retired.
R/o Rahuri,
Tq.Rahuri, District Ahmednagar.
- 5 Smt.Varubai Bapu Kalhapure,
Age : Major, Occupation : Retired.
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.
- 6 Smt.Sindhubai Girdhar Pawar,
Age : Major, Occupation : Retired.
R/o Sade,
Tq.Rahuri, District Ahmednagar.
- 7 Smt.Sarubai Vitthal Agawane,
Age : Major, Occupation : Retired.
R/o M.P.K.V.,

Tq.Rahuri, District Ahmednagar.

**WITH
WRIT PETITION NO.:4380 OF 2016**

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

- 1 Smt.Gangubai Yadav Dhage,
Age : Major, Occupation : Retired.
R/o Warwandi, Po.Mulanagar,
Tq.Rahuri, District Ahmednagar.
- 2 Bhausahab Kondiba Harishchandre,
Age : Major, Occupation : Retired.
R/o Khadambe (kd),
Tq.Rahuri, District Ahmednagar.
- 3 Shamrao Bansi Mhalsakar,
Age : Major, Occupation : Retired.
R/o Khadambe (kd),
Tq.Rahuri, District Ahmednagar.
- 4 Smt.Gayabai Fakira Chitalkar,
Age : Major, Occupation : Retired.
R/o Digras,
Tq.Rahuri, District Ahmednagar.
- 5 Smt.Mankarna Keru Kalhapure,
Age : Major, Occupation : Retired.
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.

**WITH
WRIT PETITION NO.:4381 OF 2016**

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

1 Smt.Parubai Ramdas Shinde,
Age : Major, Occupation : Retired.
R/o Digras,
Tq.Rahuri, District Ahmednagar.

2 Smt.Ashabai Bhaurao Jadhav,
Age : Major, Occupation : Retired.
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.

3 Manik Narayan Mane,
Age : Major, Occupation : Retired.
R/o Dhamori (Bd)
Tq.Rahuri, District Ahmednagar.

4 Smt.Indubai Sahadu Jadhav,
Age : Major, Occupation : Retired.
R/o Dhamori,
Tq.Rahuri, District Ahmednagar.

5 Smt.Kausabai Shankar Pote,
Age : Major, Occupation : Retired.
R/o Dhamori,
Tq.Rahuri, District Ahmednagar.

WITH
WRIT PETITION NO.:4382 OF 2016

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

VERSUS

1 Rajendra Mohaniraj Vaidya,
Age : Major, Occupation : Retired.
R/o Khadambe (kd),
Tq.Rahuri, District Ahmednagar.

2 Kohakade Nivrutti Gangaram,
Age : Major, Occupation : Retired.
R/o Warwandi,
Tq.Rahuri, District Ahmednagar.

3 Bhausahab Kedarnath Mane,
Age : Major, Occupation : Retired.
R/o Mulanagar
Tq.Rahuri, District Ahmednagar.

4 Mhatarba Maruti Aadmane,
Age : Major, Occupation : Retired.
R/o Digras
Tq.Rahuri, District Ahmednagar.

5 Smt.Parvati Laxman Date,
Age : Major, Occupation : Retired.
R/o Rahuri (kd),
Tq.Rahuri, District Ahmednagar.

WITH
WRIT PETITION NO.:6790 OF 2016

Smt.Shakuntala Raghunath Kalhapure,
Age : 59 years, Occupation : Labour,
R/o Khadambe (Bd),
Tq.Rahuri, District Ahmednagar.

VERSUS
Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6791 OF 2016

Leelabai Bhima Salve,
Age : 66 years, Occupation : Labour,
R/o Rahuri,
Tq.Rahuri, District Ahmednagar.

VERSUS
Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6792 OF 2016

Sindhubai Girdhar Pawar,
Age : 57 years, Occupation : Labour,
R/o Sade
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6793 OF 2016

Vaurbai Bapu Kalhapure,
Age : 67 years, Occupation : Labour,
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6794 OF 2016

Rakhma Haushabapu Harishchandre,
Age : 63 years, Occupation : Labour,
R/o Khadambe (Bd),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6795 OF 2016

Ashabai Bhaurao Jadhav,
Age : 58 years, Occupation : Labour,
R/o Khadambe (Bd),

Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6796 OF 2016

Parubai Ramdas Shinde,
Age : 61 years, Occupation : Labour,
R/o Digras
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6797 OF 2016

Bhausahab Kedarnath Mane,
Age : 59 years, Occupation : Labour,
R/o Mulanagar,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6798 OF 2016

Shamrao Bansi Mhalaskar,
Age : 59 years, Occupation : Labour,
R/o Khadambe (Kd),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,

District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6799 OF 2016

Kausabai Shankar Pote,
Age : 63 years, Occupation : Labour,
R/o Dhamori (Bk),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6800 OF 2016

Gangubai Yadav Dhage,
Age : 55 years, Occupation : Labour,
R/o Warvandi,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6801 OF 2016

Bhamabai Madhav Mane,
Age : 59 years, Occupation : Labour,
R/o Dhamori (Bd),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6802 OF 2016

Manik Narayan Mane,
Age : 59 years, Occupation : Labour,
R/o Dhamori Bk.,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6803 OF 2016

Sampat Vithoba Gaikwad,
Age : 65 years, Occupation : Labour,
R/o Mulanagar,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6804 OF 2016

Nivrutti Gangaram Kohkade,
Age : 62 years, Occupation : Labour,
R/o Warwandi,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6805 OF 2016

Radhabai Baburao Nikalje,
Age : 61 years, Occupation : Labour,

R/o Mulanagar,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6806 OF 2016

Tatyaba Dagdu Puri,
Age : 65 years, Occupation : Labour,
R/o Gotumbe Akhada,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6807 OF 2016

Indubai Sahadu Jadhav,
Age : 70 years, Occupation : Labour,
R/o Dhamori Bk.,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6808 OF 2016

Manjula Tukaram Patil,
Age : 63 years, Occupation : Labour,
R/o Bhatkhand,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,

At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6809 OF 2016

Rukhmini Chandrabhan Adsure,
Age : years, Occupation : Labour,
R/o Warwandi,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6810 OF 2016

Rajendra Mohiniraj Vaidya,
Age : 58 years, Occupation : Labour,
R/o Khadambe (kd),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH
WRIT PETITION NO.:6811 OF 2016

Bhimabai Sukhdeo Harishchandre,
Age : 61 years, Occupation : Labour,
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

**WITH
WRIT PETITION NO.:6812 OF 2016**

Chandrabhaga Rabhaji Deshmukh,
Age : 68 years, Occupation : Labour,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

**WITH
WRIT PETITION NO.:6813 OF 2016**

Mahadu Lahanu Hake,
Age : 68 years, Occupation : Labour,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

**WITH
WRIT PETITION NO.:6814 OF 2016**

Narmada Haribhau Bhagat,
Age : 63 years, Occupation : Labour,
R/o Babhulgaon,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

**WITH
WRIT PETITION NO.:6815 OF 2016**

Dwarkabai Fakira Ugale,

Age : 66 years, Occupation : Labour,
R/o Dhamori,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6816 OF 2016

Hausabai Manaji Bachkar,
since deceased Through Lrs
Vasant Manaji Bachkar,
Age : 51 years, Occupation : Household,
R/o Goptumba Akhada,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6817 OF 2016

Sitaram Sakharam Gaikwad
Since deceased Through Lrs
Indubai Sitram Gaikwad,
Age : 56 years, Occupation : Household,
R/o Gotumba Akhada,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6818 OF 2016

Bhagirathi Trimbak Girgune

Since deceased through Lrs
Dattatraya Trimbak Girgune,
Age : 51 years, Occupation : Household,
R/o Dhangar Lane, Rahuri,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6819 OF 2016

Mhatarba Maruti Aadmane,
Age : 60 years, Occupation : Labour,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6820 OF 2016

Kusum Laxman Adsure,
Age : 55 years, Occupation : Labour,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6821 OF 2016

Ambadas Hanumanta Bhosale
Since deceased Through Lrs
Raju Ambadas Bhosale,

Age : 40 years, Occupation : Household,
R/o Mulanagar,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6822 OF 2016

Saibai Anaji Shingade
Since deceased Through Lrs
Ananji Savaleram Shingade,
Age : 65 years, Occupation : Labour,
R/o Warwandi,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6823 OF 2016

Subhash Kondiram Korke
Since Died Through Lrs
Shantabai Subhash Korke,
Age : 60 years, Occupation : Household,
R/o Wambhori,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6824 OF 2016

Indubai Dashrath Kadam,

Age : 62 years, Occupation : Labour,
R/o Baragaon Nandur,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6825 OF 2016

Mankarna Keru Kalhapure,
Age : 65 years, Occupation : Labour,
R/o Khadambe,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6826 OF 2016

Chabubai Dada Patole
Since Died Through Lrs
Sunil Dada Patole,
Age : 58 years, Occupation : Household,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6827 OF 2016

Chabu Chand Shaikh
Since Died Through Lrs
Subrabi Chabu Shaikh,

Age : 52 years, Occupation : Household,
R/o Sade,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6828 OF 2016

Tulsa Mahadu Hake
Since Died Through Lrs
Mahadu Lahanu Hake,
Age : 68 years, Occupation : Household,
R/o Digras,
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:6829 OF 2016

Malan Ravaji Pawar,
Age : 58 years, Occupation : Labour,
R/o Khadambe (Bd),
Tq.Rahuri, District Ahmednagar.

VERSUS

Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

WITH

WRIT PETITION NO.:7083 OF 2016

Keru Rakhamaji Wagh,
Age : 60 years, Occupation : Labour,
R/o Farm Quarters,

Tq.Rahuri, District Ahmednagar.
VERSUS
Mahatma Phule Krushi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
District Ahmednagar.
Through its Registrar.

...

Shri A.S.Shelke, Advocate for the University in WP Nos.3688, 3689, 3692, 3693, 4378, 4379, 4380, 4381 and 4382 of 2016.

Shri M.N.Navandar, Advocate for the University in WP Nos.6789 to 6829 of 2016 and WP No.7083/2016.

Shri Parag V. Barde, Advocate for the Workers in all the petitions.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th August, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Mahatma Phule Agriculture University, Rahuri, District Ahmednagar has preferred one group of Writ Petitions and the identically placed Respondents/ Daily Wage Employees in the said petitions have also filed the second group of Writ Petitions wherein the Agriculture University is the Respondent. For the sake of brevity, the Agriculture University in

these matters shall be referred to as “the University” and the Daily Wage Employees, who are Respondents in the petitions filed by the University and are Petitioners in their own group of petitions, shall be referred to as “the Workers”.

3 While issuing notice, this Court by its order dated 22.04.2016 had directed that the amount deposited by the Mahatma Phule Agriculture University, Rahuri with the Appellate Authority (PGA) shall not be disbursed until further orders.

4 The University is aggrieved by the common judgment dated 20.10.2011 delivered by the Controlling Authority under the Payment of Gratuity Act, 1972. The University is also aggrieved by the common judgment dated 11.06.2015 delivered by the Appellate Authority under the Payment of Gratuity Act. The Controlling Authority, while granting the amount of gratuity, had directed the payment of interest at the rate of 10% per annum from the date it became due and payable. The Appellate Authority, which is the Industrial Court, sustained the directions of the Controlling Authority to the extent of the amounts of gratuity to be paid. However, interest granted by the Controlling Authority was not sustained and as such, the Appeals filed by the University were partly allowed. The Workers are also aggrieved by the same common judgment to the extent

of the refusal of interest on the gratuity amount.

5 I have considered the strenuous submissions of Shri Shelke and Shri Navandar, learned Advocates appearing for the University and Shri Barde, learned Advocate appearing on behalf of all the Workers. With their assistance, I have gone through the record available.

6 The thrust of the submissions of the learned Advocates on behalf of the University can be summarized as under:-

- (a) All the Workers at issue are daily wage workers.
- (b) All of them have been retrenched by order dated 15.03.2001 and the law of retrenchment has been complied with.
- (c) Pursuant to an earlier judgment of the Honourable Supreme Court in Special Appeal Nos.8640 to 8659 of 1997 dated 24.07.2001 in between the same parties, legal dues payable to the Workers were recalculated and further dues were paid.
- (d) The tenure of employment of the Workers upto their retrenchment on 15.03.2001 is not disputed.
- (e) All the Workers preferred their applications under the provisions of the Payment of Gratuity Act before the Controlling Authority on 05.12.2005.
- (f) The Payment of Gratuity Act is not applicable to the daily

wage workers.

- (g) The University has made the Payment of Gratuity Act applicable to all Class-IV workers and above, while not making it applicable to daily wagers.
- (h) The applications for gratuity filed by the Workers were delayed by about three and half years.
- (i) No application for condonation of delay was filed.
- (j) There is no decision by the Controlling Authority on the issue of delay.
- (k) There is also no decision of the Controlling Authority on the issue of whether, the Payment of Gratuity Act would be applicable to the Workers at issue.
- (l) Since the Workers have not put forth their demands earlier and since the University was under a bonafide belief that the Payment of Gratuity Act is not applicable to the daily wagers workers, no interest needs to be imposed.
- (m) The University is not a profit making body or authority and has to survive on the funds generated through the fees of the students.
- (n) The University has to generate it's own funds for sustaining several expenses and considering this position, interest ought not to be imposed on the amounts of gratuity.

- (o) The onus and burden is upon the Workers to make a claim for gratuity and since the issue has been decided for the first time by the Controlling Authority, the University has promptly deposited the gratuity amount as assessed by the Controlling Authority before the Appellate Authority while filing its appeals.
- (p) Though the Appellate Authority has rightly deprived the Workers of interest, it failed to realize that the Payment of Gratuity Act was not applicable to the University.

7 Shri Shelke and Shri Navandar have placed reliance upon the judgment of this Court in the matter of *R.P.Dhanda vs. Regional Manager and another*, **2007 (4) BCR 321 : 2007(4) Mh.L.J. 267** (paragraphs 18 to 28 of the said judgment).

8 The submissions of Shri Barde can be summarized as under:-

- (a) The Payment of Gratuity Act cannot be made applicable selectively by the University.
- (b) He submits, on instructions from the Workers at issue, that they would not claim interest on the gratuity amount from the date it became payable till December, 2005 when they preferred their applications before the Controlling Authority.

- (c) The provisions of the Payment of Gratuity Act and the Rules thereunder, cast a duty on the Employer to pay the gratuity to the Workers.
- (d) Failure on the part of the University in making the payment of gratuity would, therefore, invite imposition of interest.
- (e) The interest at the rate of 10% per annum was rightly imposed by the Controlling Authority and the Appellate Authority has erroneously set aside the said direction which has caused grave injustice to the Workers.

9 Shri Barde has relied upon the following judgments :-

- (a) *Transport Manager, Kolhapur Municipal Transport Undertaking vs. Pravin Bhabhutulal Shah*, **2004(4) ALL MR 297.**
- (b) *H.Jayarama Shetty vs. The Sangli Bank Ltd.*, **2005(3) ALL MR 10.**
- (c) *Gurunath Vithal Tamse vs. National Textile Corporation (N.M.)*, **(2002) 93 FLR 742 (Bom).**
- (d) *Balvant Mohan Badve vs. Ahmednagar Municipal Corporation*, **2016(3) Mh.L.J. 62 : 2016(2) BCR 249.**
- (e) *Headmistress (Ms.PD'Souza), Fatimadevi English High School and others. vs. Nymphia Pereira (Smt.) and others*, **(2003) 1.**

LLJ 619.

- (f) *Principal, Krishi Vidyalyaya vs. Dwarkabai Haribhau Hingane, **2008(6) Mh.L.J. 576.***
- (g) *H.Gangahanume Gowda vs. Karnataka Agro Industries Corporation Limited, **AIR 2003 SC 1526.***
- (h) *D.D.Tewari vs. Uttar Haryana Bijli Vitran Nigam Limited, AIR **2014 SC 2861.***
- (i) *Managing Director, MSCTDC Ltd. vs. Purushottam Asaram Raut, **2015 (4) Mh.L.J. 342 : 2015(4) BCR 365.***

10 In the light of the submissions of the learned Advocates for the respective sides, I find it appropriate to refer to certain provisions of the Payment of Gratuity Act, 1972 and the Payment of Gratuity (Maharashtra) Rules, 1972.

11 Section 2(c) and 2A with regard to “continuous service”, Section 2(e) as regards definition of “employee” and Section 2(f) as regards definition of “employer”, read as under:-

“2(c) "continuous service" means continuous service as defined in section 2A.”

“Section 2A : Continuous service.-

For the purposes of this Act, –

(1) an employee shall be said to be in continuous service

for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;

(2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer –

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than –

(i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than –

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case;

[Explanation. – For the purposes of clause (2), the number of days on which an employee has

actually worked under an employer shall include the days on which –

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 or (14 of 1947), under any other law applicable to the establishment;

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

- (3) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.”*

“Section 2(e) : "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.”

“Section 2(f) : “Employer” means, in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop –

- (i) *belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,*
- (ii) *belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,*
- (iii) *in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person.”*

12 The determination of amount of gratuity and the manner of payment of the same is provided under Section 7 which reads as under:-

“Section 7. Determination of the amount of gratuity:-

- (1) *A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.*
- (2) *As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.*
- (3) *The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.*
- (3A) *If the amount of gratuity payable under sub-section*

(3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.

- (4)(a) *If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.*
- (b) *Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.*
- (c) *The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.*
- (d) *The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.*
- (e) *As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit –*
- (i) to the applicant where he is the employee; or*

- (ii) where the applicant is not the employee, to the [nominee or, as the case may be, the guardian of such nominee or] heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.
- (5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:–
- (a) enforcing the attendance of any person or examining him on oath;
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavits;
 - (d) issuing commissions for the examination of witnesses.
- (6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).
- (7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.

- (8) *The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.”*

13 Rule 7 which deals with an application for gratuity, Rule 8 which deals with the manner of issuing notice for payment of gratuity and Rule 9 as regards the mode of payment of gratuity read as under:-

- “7. *Application for gratuity :-*
- (1) *An employee who is eligible for payment of gratuity under the Act, or any person authorised, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in Form 'T' to the employer:*
- Provided that where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of superannuation or retirement.*
- (2) *A nominee of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within thirty days from the date the gratuity became payable to him, in Form 'J' to the employer:*
- Provided that an application in plain paper with relevant particulars shall also be accepted. The employer may obtain such other particulars as may be deemed necessary by him.*
- (3) *A legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within one year from the date the gratuity became payable to him, in Form 'K' to the employer.*
- (4) *Where gratuity becomes payable under the Act before the commencement of these rules, the periods of limitation specified in sub-rules (1), (2) and (3) shall*

be deemed to be operative from the date of such commencement.

- (5) *An application for payment of gratuity filed after the expiry of the periods specified in this rule shall also be entertained by the employer, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Act shall be invalid merely because the claimant failed to present his application within the specified period. Any dispute in this regard shall be referred to the controlling authority for his decision.*
 - (6) *An application under this rule shall be presented to the employer either by personal service or by registered post acknowledgement due.*
8. *Notice for payment of gratuity:-*
- (1) *Within fifteen days of the receipt of an application under rule 7 for payment of gratuity, the employer shall-*
 - (i) *if the claim is found admissible on verification, issue a notice in Form 'L' to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day of the date of receipt of the application, for payment thereof, or*
 - (ii) *if the claim for gratuity is not found admissible, issue a notice in Form 'M' to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In either case a copy of the notice shall be endorsed to the controlling authority.*
 - (2) *In case payment of gratuity is due to be made in the employer's office, the date fixed for the purpose in the notice in Form 'L' under clause (1) of sub-rule (1) shall be refixed by the employer, if a written application in this behalf is made by the payee explaining why it is not possible for him to be present in person on the date specified.*
 - (3) *If the claimant for gratuity is a nominee or a legal heir, the employer may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim, as the*

case may be. In that case, the time limit specified for issuance of notice under sub-rule (1) shall be operative with effect from the date such witness or evidence, as the case may be, called for by the employer is furnished to the employer.

- (4) A notice in Form 'L' or Form 'M' shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due.
- (5) A notice under sub-section (2) of section 7 shall in Form 'L'.

9. *Mode of payment of gratuity:--*

The gratuity payable under the Act shall be paid by Demand Draft or Account Payee Cheque to the eligible employee, nominee or, as the case may be, legal heir:

Provided that intimation about the details of payment shall also be given by the Employer to the Controlling Authority of the area.”

14 Rule 10 of the Payment of Gratuity (Maharashtra) Rules, 1972, which provides for making of an application for direction to the Controlling Authority and limitation thereunder reads as under:-

10. Application to controlling authority for direction:-

(1) If an employer-

- (i) refuses to accept a nomination or to entertain an application sought to be filed under rule 7, or*
- (ii) issues a notice under sub-rule (1) of rule 8 either specifying an amount of gratuity which is considered by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or*
- (iii) having received an application under rule 7 fails to issue any notice as required under rule 8 within the time specified therein, the claimant employee, nominee or legal heir, as the case may be, may, within ninety days of the occurrence of the cause for the*

application, apply in Form 'N' to the controlling authority for issuing a direction under sub-section (4) of section 7 with as many extra copies as are the opposite parties :

Provided that the controlling authority may accept any application under this sub-rule, on sufficient cause being shown by the applicant, after the expiry of the specified period:

Provided further that, no limitation for filing an application under this rule shall apply if the employer has failed to give notice under sub-section (2) of Section 7 read with sub-rule (5) of rule 8:

Provided also that, an application under this rule shall be made without prejudice to any other mode of recovery under any law for the time being in force.

- (2) *Application under sub-rule (1) accompanied to all relevant documents, if any, together with a list in Form 'NI' shall be presented in person to the controlling authority or shall be sent by registered post acknowledgment due."*

15 Rule 11 of the Payment of Gratuity (Maharashtra) Rules, 1972, which provides with the procedure for dealing with the applications for direction reads as under:-

"11. Procedure for dealing with application for direction:-

- (1) *If the application is not dismissed under sub-rule (3) of Rule 10-A and is registered in the register in Form 'Q', the controlling authority shall by issuing a notice in Form 'Q', call upon the applicant as well as the employer to appear before him on a specified date, time and place, either by himself or through his authorised representative together with all relevant documents, if any and a list thereof in form 'NI' and also witnesses, if any.*
- (2) *Any person desiring to act on behalf of an employer or employee, nominee or legal heir, as the case may*

be, shall present to the controlling authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act. The controlling authority shall record thereon an order either according his approval or specifying, in the case of refusal to grant the permission prayed for, the reasons for the refusal.

- (3) A party appearing by an authorised representative shall be bound by the acts of the representative.*
- (3-a) Any relevant document or documents other than those appended to the application under sub-rule (1) or produced in response to the notice in Form 'O' which any party desires to tender in evidence, shall be produced on or before the first date fixed for hearing along with a list thereof in Form 'U' and with as many copies thereof as there are opposite parties.*
- (3-b) Except when a document is being produced for the purpose of cross-examining a witness or handed to a witness to refresh his memory at the time of hearing, a party shall not be allowed to rely on any documents other than the documents produced under sub-rule (2) of rule 10 or as the case may be sub-rules (1) and (3-a) of this rule, unless an application showing good cause for not producing the same earlier is made by the party for permission to do so and such permission is granted by this controlling authority.*
- (3-c) If any document is written in pencil or defaced, torn or in any way damaged, or where its condition or appearance requires special notice, a clear note to that effect shall be made in the list and any such document shall be brought to the notice of the controlling authority by the clerk whose duty is to receive it and the controlling authority, may, if he deems it desirable, ask the party concerned to produce a Photostat copy or true copy thereof either hand written or typed, for placing it on the record along with the document.*
- (3-d) The documents which are admitted by the other party, or which are not admitted but are proved and admitted in evidence, shall be immediately marked*

for identification and shall be detached from the list and shall be assigned the proper exhibit numbers and any reference to any of such documents in the deposition, proceeding or order shall be made with its respective exhibit number.

- (4)(a) After completion of hearing on the date fixed under sub-rule (1), or after such further evidence, examination of documents, witnesses, hearing and enquiry, as may be deemed necessary, the controlling authority shall record his finding as to whether any amount is payable to the applicant under the Act, (together with costs and/or interest at such rate as the controlling authority deems proper). A copy of the finding shall be given to each of the parties.*
- (4)(b) The controlling authority shall pronounce his finding or decision openly on the date fixed for the said purpose.*
- (4)(c) The finding or decision shall be signed and dated by the controlling authority openly at the time of pronouncing it and, when once signed, shall not afterwards be altered, amended or added to:*

Provided that clerical or arithmetical mistake, in findings or decision, or errors arising therein from any accidental slip or omission may at any time be corrected by the controlling authority either of its own motion or on application of any of the parties.

- (5) If the employer concerned fails to appear on the specified date of hearing after due service of notice without sufficient cause, the controlling authority may proceed to hear and determine the application ex parte. If the applicant fails to appear on the specified date of hearing without sufficient cause, the controlling authority may dismiss the application:*

Provided that an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application reheard after giving not less than fourteen days' notice to the opposite party of the date fixed for rehearing of the application.

- (5-a) Every finding and order, unless dictated in the presence of parties or their representatives, shall be pronounced by the controlling authority on the day*

- fixed for that purpose.*
- (5-b) *Every finding and order shall be signed and dated by the controlling authority on the day of its pronouncement and thereafter no addition or alteration other than correction of clerical or arithmetical mistake arising from any accidental slip or omission shall be made thereto.”*

16 Considering the entire scheme of the Payment of Gratuity Act and the Rules as reproduced above, it is noteworthy that firstly, the Act by itself does not prescribe any limitation for claiming gratuity and secondly, though the Rules prescribe the limitation, the payment of gratuity cannot be denied merely on the ground of delay since the delay caused beyond the limitation of 60 days prescribed by the Rules, can be condoned.

17 Insofar as the first contention of the University that the Payment of Gratuity Act is not applicable to it, is concerned, I do not find that their contentions need to be considered for reasons more than one. Firstly, that the Educational Institutions have been covered by the definition of “industry” under Section 2(j) of the Industrial Disputes Act, 1947 by the Honourable Supreme Court (a five judges Bench) in the matter of *Bangalore Water Supply and Sewerage Board vs. A. Rajappa and others*, 1978 SCC (L & S) 215 : [1978] 2 SCC 213. Though the issue of revisiting the definition of “industry” under Section 2(j) is referred to the Larger Bench in the matter of the *State of Uttar Pradesh vs. Jai Bir Singh*,

2005 (5) SCC 1, the law as is laid down in the matter of *the Bangalore Water Supply (supra)* is still holding the field.

18 Secondly, the Payment of Gratuity Act is applicable to this University. The University itself claims that the Payment of Gratuity Act has been made applicable to all permanent employees including Class-IV employees and has selectively not made it applicable to daily wagers as like the Workers in this case. This issue has been dealt with by this Court (Coram : Smt.Nishita Mhatre, J.) in the matter of *Principal, Krishi Vidyalaya (supra)*. Paragraphs 4 and 5 of the said judgment read as under:-

“4. This issue has already been decided by a learned Single Judge of this Court in the case of *Principal, Bhartiya Mahavidyalaya, Amravati & anr. v/s Ramkrishna Wasudeo Lahudkar*, reported in 1993 Mh.L.J. 1272. In that case, it has been held by the learned Single Judge that -

“10. The argument fails to impress. In fact, what is contemplated by section 1(3)(b) of the Gratuity Act is an establishment "within the meaning of any law for the time being in force in relation to shops and establishments in a State." Giving the ordinary meaning to these words would mean and include any establishment so defined to be an establishment in such law in relation to shops and establishments in a State. Now it is an admitted position that the *Bombay Shops and Establishments* would be such a law. Therefore, if an establishment is so defined to be an establishment in the *Bombay Shops and Establishments Act*, it would complete the test provided by section 1(3)(b) of the Gratuity Act.

What is suggested by the words "within the meaning of any law" is only for the identification of such establishments. If those institutions can be called to be the establishments within the meaning of the State law, then section 1(3)(b) of the Gratuity Act must apply to them, even if such establishments ultimately are exempted from the operation of the Act. Now one thing is certain that in order that certain establishments can be exempted from the operation of the Bombay Shops and Establishments Act, it has to be an establishment within the meaning of the Bombay Shops and Establishments Act first, because otherwise there would be no power to exempt any such institution. It is only when that particular institution partakes a colour of establishment as defined in the Bombay Shops and Establishments Act that the State Government would get the power to exempt the same. Otherwise, there would be no question of the application of the Bombay Shops and Establishments Act to such an institution. It is, therefore, certain that the petitioners are an establishment within the meaning of the Bombay Shops and Establishments Act. The further question whether the provisions of the Bombay Shops and Establishments Act are applicable to it or not, is entirely a different question and not germane to the controversy at all. Once the identity of the establishment, as is the need of the language of section 1(3)(b) of the Gratuity Act, is established, the further fact whether the said Act is applicable to that establishment or not loses all its significance at least for the purposes of the Gratuity Act. This position is obtained more forcefully because of the specific provision in section 5 of the Payment of Gratuity Act itself which gives the power to the appropriate Government to exempt any establishment from its operation and admittedly, the establishments such as the establishment of the petitioner has not been exempted by the appropriate Government. The words used are only for the purpose of establishing the identity of such establishments and if this meaning is given, then the petitioners must be considered to be

the establishment within the meaning of the Bombay Shops and Establishments Act.

11. If the interpretation as put by Shri Pradhan is to be accepted, then the language of the Legislature in section 1(3)(b) of the Gratuity Act would have been different. In that case, the language would have been to the effect that provisions of the Act shall apply to every shops establishment to which the law in relation to and establishments in applicable. If the a State interpretation of Shri if Pradhan is to be accepted, then it will have to be held that by making the law inapplicable to such establishment, the establishment is taken away from the mischief of section 1(3)(b) of the Gratuity Act. Now if the language of a provision is clear and admits of no ambiguity, then in order to see the true meaning thereof it is not permissible to add the words or to substitute them. The provision will have to be interpreted specifically on the basis of its plain meaning, if such plain meaning is unambiguous or admits of no doubt and indeed, in the present case the meaning of the words "within the meaning of any law" admits of no doubt, the language cannot be allowed to be altered. The import of the words clearly brings out the only meaning that such establishment should be an establishment either defined by or recognised in that particular Act as an establishment."

- 5. A similar view has been taken by another learned Single Judge of this Court in the case of Head Mistress (Mrs.P.D'Souza) Fatimadevi English High School & 2 ors vs. Nymphia Pareira, reported in 2002 (III) CLR 561."*

19 This Court (Coram : Myself), in the matter of *Balwant Mohan Badve vs. Ahmednagar Municipal Corporation*, **2016 (3) Mh.L.J. 62**, has dealt with the issue of applicability of the Payment of Gratuity Act to the

temporary and daily wage employees. After considering the entire scheme of the Act, it was observed in paragraphs 11 to 13 as under:-

- “11. It is, therefore, apparent that any employee, whether he be a temporary or a permanent, he would be entitled for gratuity after 30 days of severing employer-employee relationship if he satisfies Section 2A and Section 4 of the Payment of Gratuity Act. There is no dispute about the tenure of service of the petitioner from 07/09/1985 till 01/04/2007 and the fact that he was a Civil Engineer as on the date of his retirement. There is no dispute even as regards his last drawn salary.
12. I find that the Industrial Court, by its observations in paragraph No.13 of the judgment on internal page Nos.11 and 12, has arrived at a self-contradictory conclusion. On the one hand, it has concluded that the service of the petitioner is not legalized and therefore he is not entitled for gratuity. On the other hand, it has concluded that the matter deserves to be remanded to the Controlling Authority for a fresh adjudication. Needless to state, these conclusions are perverse, erroneous and reflect non application of mind.
13. Even if it is presumed for the sake of presumption that the Government finally does not regularize the services of the petitioner, yet, he would be entitled for gratuity for having worked continuously and having fulfilled the requirement of Section 2-A and Section 4 of the Payment of Gratuity Act. Non-payment of gratuity after 30 days from the date of severing employer-employee relationship entails interest as may be granted by the competent authority.”

20 In the matter of *Head Mistress vs. Nymphia Pereira* (supra), this Court has dealt with similar contentions and has concluded in

paragraphs 6 and 11 as under:-

- “6. *Ms.Trivedi, the learned advocate for the Respondent teachers has strongly supported the order of the Appellate Authority. She has relied on a Notification dated April 3, 1997 issued by the Central Government in exercise of its powers under Section 1(3)(c) whereunder the Payment of Gratuity Act is made applicable to the educational institutions. According to her therefore it is futile for the petitioners to say that theirs being an educational institution is not governed by the Payment of Gratuity Act. The said Notification reads as under:-*

"Payment of Gratuity Act, 1972: Notification under Section 1(3)(c):

*Applicability of Act to Educational Institutions.
Notification F.No.S-42013/1/95-S.S.II dated April 3, 1997.*

In exercise of the power conferred by clause (c) of Sub-section (3) of Section 1 of the Payment of Gratuity Act, 1972 (4 of 1972), the Central Government hereby specifies the educational institutions in which 10 or more persons are employed, or were employed on any day of the preceding 12 months, as a class of establishment to which the said Act shall apply with effect from the date of publication of this Notification provided nothing contained -in this Notification shall affect the operation of the notification of the Ministry of Labour No.5.0.259 dated January 8, 1982".

11. *Shri Shah for the petitioners tried to submit that the educational institution is neither a commercial establishment nor is an industry, and therefore, this class of establishment should be treated differently from the ordinary commercial avocations. I entirely agree with his submissions and I have also no doubt in my mind that imparting of education is in the nature of mission or a noble vocation. I have also no doubt that a teacher educates children, he moulds their character, builds up their personality and makes them fit to become responsible citizens. I further*

entirely agree that the children grow under the care of teachers. No one would have two opinions in this regard except when the time comes for making a sacrifice in favour of the teachers in the form of gratuity to be paid to them as a return for their holding the torch of the noble mission high. We tend to forget the aforesaid ideal when a teacher is superannuated and is denied gratuity. We further forget that even the teachers who are the noble missionaries have their own families, have their own children, they also have to impart education to their own children and to grow them as good citizens and to build their characters and for that purpose they also have to pay tuition fees besides, the expenses for marriages of their daughters and sons. All the aforesaid items cannot be purchased without hard cash in the hands of the teachers who have hardly any legitimate source of livelihood after they reach the age of superannuation. The Petitioners as educational institution ought not to have been reluctant to contribute their mite to the retiring teachers by way of making payment of gratuity accompanied by good garland of farewell.”

21 In the light of the above, I, therefore, do not find any merit in the submissions of the learned Advocates for the University that the Payment of Gratuity Act would not be applicable to the Workers in the present case.

22 It is vehemently submitted on behalf of the University that since an application for condonation of delay was not filed and as it did not give rise to any application of mind to the issue of delay on the part of the Controlling Authority, the impugned judgments deserve to be quashed

and set aside and if the Workers desire to file an application for condonation of delay, they may do so.

23 Reliance is placed on paragraphs 6, 7, 8 and 18 to 28 of the *R.P.Dhanda judgment (supra)* which read as under:-

- “6. The petitioner, ultimately, moved an application dated 12th July, 2005 to the Controlling Authority as required under Sections 4 and 7 of the Payment of Gratuity Act, 1972 ("Act" for short) read with Rule 10 of the Payment of Gratuity (Central) Rules, 1972 framed under the Act ("Rules" for short) and prayed for direction against respondent No. 1 for payment of gratuity as claimed in the application. On the same day, petitioner also filed application for condonation of delay in making the application dated 17th July, 2005.
7. The Controlling Authority after hearing parties to the application, was pleased to pass the order dated 23rd February, 2006 and thereunder directed respondent No. 1 to pay to the petitioner the amount of gratuity with interest as stated in the opening para of this judgment.
8. Being aggrieved by the aforesaid order dated 23rd February, 2006, respondent No. 1 preferred appeal dated 7th April, 2006 before the Appellate Authority. The Appellate Authority, vide its order dated 28th August, 2006, was pleased to allow the appeal holding that the application made by the petitioner before the Controlling Authority was barred by limitation and thereby reversed the order dated 23rd February, 2006 passed by the Controlling Authority.
18. Having heard rival parties, it is not in dispute that the petitioner has retired from service on 31st May, 2000. It is also not in dispute that he is entitled to receive amount of gratuity under the Act. With this, if one turns to the provisions of the Act and the scheme engrafted therein, it would be clear that the employer

is under statutory duty to pay the gratuity due and payable to the employee, inter alia, on his attaining the age of superannuation. Sub-section (2) of Section 7 of the Act, in fact, creates an obligation, that the employer shall, as soon as gratuity becomes payable, whether an application has been made or not, determine the amount of gratuity and give a notice in writing to the employee and the Controlling Authority specifying the amount of gratuity so determined. Under Sub-section (3) of Section 7, the employer has to arrange to pay the amount of gratuity within 30 days from the date it becomes payable. Sub-section (4) contemplates that an application can be made to the Controlling Authority where a dispute arises, inter alia; in relation to a claim for the payment of gratuity.

19. With the above, if one turns to the rules framed under the Act, Rule 7 provides that an employee, who is eligible for payment of gratuity under the Act, or any person authorised, in writing, to act on his behalf, can apply, ordinarily, within thirty days from the date the gratuity became payable, in Form T to the employer.
20. Rule 10 prescribes for application to the Controlling Authority for direction. Sub-rule (1) of Rule 10 prescribes that if the employer amongst other, having received an application under Rule 7 of the Rules, fails to issue any notice as required under Rule 8 within the time specified therein; then the claimant employee, nominee or legal heir, as the case may be, may, within ninety days of the occurrence of the cause for application, apply in Form 'N' to the Controlling authority for issuing a direction under Sub-section (4) of Section 7 with as many extra copies as are the opposite parties. The Controlling Authority can accept any application under this sub-rule, on sufficient cause being shown by the applicant, after the expiry of the specified period therein. Rule 11 deals with the procedure for dealing with such application, whereas Rules 12 to 16 deal with procedural aspects of the matter. Rule 17 deals with the decision on the application.
21. Sub-section (7) of Section 7 also prescribes period of

limitation of sixty days for filing appeal against the order of the Controlling Authority. It is provided therein that the delay, if any, beyond sixty days can be condoned by the authority on satisfaction of sufficient cause. Rule 18 provides for procedure with regard to filing of appeal as provided under Sub-section (7) of Section 7 of the Act.

22. Having taken survey of the provisions of the Act and Rules, it is clear that the period of limitation is provided for moving an application to the Controlling Authority, to claim the amount of gratuity. The rule governing the limitation appears not to have been brought to the notice of the learned single Judge when the case of Gurunath Vithal Tamse (*supra*) was heard and decided, as such ratio of the said judgment cannot be accepted as an authority to hold that no period of limitation is prescribed to move an application to the Controlling Authority under the Act and Rules framed thereunder.
23. In the above backdrop, turning to the case on hand, after receipt of application under Section 7 along with application for condonation of delay, the Controlling Authority ought to have taken up the application for hearing only upon condonation of delay in preferring application under Section 7 of the Act as per the law laid down by the Apex Court in the case of Gagandeep Pratihthan Pvt. Ltd. v. Mechano, 2002 (1) SCC 475. The petitioner did make an application for condonation of delay. However, the Controlling Authority failed to consider the same. Consequently, the said authority failed to condone delay in preferring the application under Section 7. In absence of condonation of delay, it was not open to the Controlling Authority to deal with the application on merits, rather it had no jurisdiction to consider the same in view of the law laid down by the Division Bench of this Court in Mathuradas Mohta College of Science v. R.T. Borkar, 1997 (2) Mh.L.J. 168.
24. In the above view of the matter, the Appellate Authority was perfectly justified in reversing the order of the Controlling Authority and allowing the appeal holding that the application under Section 7(4)(b)

read with Section 10(1)(iii) was not maintainable since it was filed beyond the period of limitation prescribed under the Rules.

25. *The Appellate Authority having reversed the order of the Controlling Authority was not expected to stop by merely allowing the appeal but it ought to have remitted the matter back to the Controlling Authority for consideration of the application for condonation of delay, which was made by the petitioner and not considered by the Controlling Authority. It was a lapse on the part of the Controlling Authority in not considering the application for condonation of delay. The petitioner cannot be made to suffer because of the lapse on the part of the Controlling Authority, who had failed to consider prayer for condonation of delay in preferring application to claim amount of gratuity.*
26. *The impugned order is, thus, liable to be set aside. The proceedings are liable to be remitted back to the Controlling Authority with direction to consider the application for condonation of delay; and, after condonation of delay; to decide the application seeking to claim amount of gratuity on its own merits; following principles of natural justice; by a reasoned order; taking into account the law laid down by the Apex Court in the case of Secretary, ONGC Ltd. v. V.U. Warriar (supra).*
27. *The Prothonotary and Senior Master of this Court is directed to remit the amount of Rs. 3,50,000/-, deposited by respondent No. 1- Bank in this Court, to the Controlling Authority. The Controlling Authority is directed to hold this amount in fixed deposits and deal with the same subject to the result of the application.*
28. *It is needless to mention that pending consideration of the substantive application the Controlling Authority shall permit withdrawal of the amount to the petitioner- employee, subject to his vacating bank premises allotted to him for his residence when he was in service. In the event petitioner- employee refuses to vacate the premises, then, this factor should be taken into account at the time of final disposal of the application so as to adjust equities between the*

*parties. All rival contentions on merits are kept open.
Order accordingly.”*

24 There can be no dispute that initial burden lies on the Employer to make the payment of gratuity. The contention of the University that it carried a bonafide belief that the Payment of Gratuity Act would be applicable only to the permanent Class-IV employees and higher categories and would not be applicable to the daily wagers, cannot be accepted. I am unable to be convinced that the University was not aware that the Payment of Gratuity Act becomes applicable to every employee who has worked continuously for five years, notwithstanding whether, he is a permanent employee or not. No where does the Payment of Gratuity Act create an exception that the Act would not be applicable to those employees who are not permanent.

25 In the above backdrop, the University was under a legal obligation to pay the gratuity to the Workers considering the phraseology used in Section 4 of the Payment of Gratuity Act. The learned Advocates for the University have canvassed that in the backdrop of their bonafide belief, the Workers should have made the applications for payment of gratuity and as they failed to do so, no interest can be imposed. If the said submission is accepted, it would do violence to the provisions of the Payment of Gratuity Act and especially the word “shall” used in Sections 4

and 7. Being a piece of social legislation, the word “shall” will have to be understood in the literal sense of the term and cannot be construed to mean “may”.

26 Under Section 4(1) the gratuity is mandatorily held to be payable to the employee and under Section 7(2) it is held that the Employer shall pay the gratuity whether, an application by the Worker is made or not. Section 7(3) mandates that the Employer shall arrange to pay the amount of gratuity within 30 days from the date it becomes payable. Sub-section (3-A) of Section 7 clearly provides that if the Employer fails to pay the gratuity under Section 7(2) and 7(3), he shall pay simple interest at the rate not exceeding the rate notified by the Central Government from time to time for repayment of a long term deposits.

27 The proviso to Section 7(3-A) would absolve the Employer of the responsibility to pay interest only if the delay in payment is due to the fault of the employee and the Employer has obtained permission in writing from the Controlling Authority for the delayed payment on this count.

28 In my view, considering the record available and in the light

of the submissions of the learned Advocates, the proviso below Section 7(3-A) would not be applicable as there are no circumstances cited which would indicate that the gratuity amount was belatedly paid by the University on account of the conduct or act of the Workers which can be interpreted to mean that the delay in payment was due to the fault of the Workers. I am fortified in this conclusion for the reason that the University has taken a bold stand in these cases that the Payment of Gratuity Act is not applicable to temporaries and daily-wagers and hence, there was no question of paying the gratuity to these Workers.

29 Insofar as the delay is concerned, notwithstanding that Shri Barde makes a statement on instructions for waiving the interest from the date the gratuity becomes payable till the date of filing of the applications, there can be no dispute that if there is a delay on the part of the Workers in making the claim, they have to make an application for seeking condonation of delay. Either a separate application could be filed or the grounds for seeking condonation of delay can be set out in the application itself keeping in view the judgment of this Court in the matter of the *National General Mazdoor Union v/s M/s Nitin Casting Limited*, **1990 (II) CLR 641 : 1991(1) BCR 8**. It also cannot be ignored that there was no contention in the applications filed by the Workers seeking condonation of delay.

30 In this backdrop and considering the view taken by this Court in the *R.P.Dhanda case* (supra), ordinarily the matters could have been remitted back to the Controlling Authority for a decision on the issue of condonation of delay. However, I am not inclined to do so for two reasons.

Firstly that, it is more than 15 years that the gratuity amounts have still not reached those tired and aging bodies as like the Workers in these cases, who have no income to support themselves post removal from service and in their old age. The amount of gratuity is not disputed. It would, therefore, be harsh to reverse the clock by about 15 years and make the Workers litigate on the technical issue of condonation of delay.

Secondly, this Court has dealt with a similar issue in the matter of *Transport Manager, Kolhapur Municipal Transport Undertaking* (supra). This Court has concluded that the limitation would not be applicable since the Petitioner undertaking had failed to give a notice as stipulated under Section 7(2). It was held that the limitation is prescribed under the Rules and the same would become applicable where the Employer has given a proper notice under Section 7(2). Paragraph 8 of the judgment reads as under:-

“8. Mr. Topkar, learned Advocate for Respondent No. 1 workman, submits that there is no period of limitation prescribed under the Act or the Rules framed thereunder. As rightly submitted by Mr.

Topkar, the second proviso to Rule 10 provides that there is no limitation for filing an application under Rule 10 if the employer has failed to give notice under Sub-section (2) of Section 7. Sub-section (2) of Section 7 of the Act stipulates that the employer shall as soon as the gratuity becomes payable, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable specifying the amount of gratuity, irrespective of whether an application has been made by the workman to claim gratuity. The learned Advocate rightly submits, in my view, that the question of limitation does not arise in the present case as the Petitioner has failed to give the notice as stipulated in Sub-section (2) of Section 7 of the Act.”

31 It is noticed that the judgment of this Court in the Transport Manager, Kolhapur Municipal Transport (supra) was not cited before this Court which heard the R.P.Dhanda case (supra).

32 Taking into account the law as is applicable and the fact that the Workers are without gratuity for 15 years, that I do not intend to remit the matters only for this purpose to the Controlling Authority.

33 Going by the scheme of the Payment of Gratuity Act and the Rules thereunder, an obligation is cast upon the Employer to make the payment of gratuity with promptitude. If the University was of the firm belief that these Workers are not entitled for gratuity, they could have intimated the said Workers knowing fully well that the provisions of the

Payment of Gratuity Act would benefit those Workers who had worked for five years or more continuously. Having failed to do so, it would not, therefore, mean that the delay has been caused only by the Workers.

34 The Payment of Gratuity Act strikes a balance. An option is also given to the Workers to make a claim if the Employer has not paid the gratuity or if they are not satisfied with the amount of gratuity paid. As such, the initial burden lay upon the University and failure to make the payment of gratuity, would then give the Workers an opportunity of raising a claim under the Act. In the peculiar backdrop as above, even if it is presumed that the delay is only at the end of the Workers, I do not find that the said delay could be termed as being so inordinate or deliberate so as to deprive the Workers of the gratuity amount.

35 This Court in the matter of *Chief Executive Officer, Zilla Parishad, Beed vs. Assistant Labour Commissioner and Controlling Authority*, **2014 (3) Mh.L.J. 639 : 2014 (3) All M.R. 134**, has considered the intent and object behind introduction of the Payment of Gratuity Act and has traced its history in which the Employer used to pay some amounts to their employees only to express gratitude for having served the factory or establishment for a long duration. Before the Act was introduced, it was an act of gratis. This judgment need not be enlarged on this issue by

considering the fact that the Workers have given up the interest on the gratuity as noted above. Therefore, considering the judgment of this Court in the *Transport Manager, Kolhapur Municipal Transport (supra)*, the claim for gratuity cannot be defeated only on the ground of delay.

36 The issue of interest has been strongly contested by both the sides. The submission of the University is that since they did not believe that they were required to pay the gratuity to these Workers, the denial of gratuity amount in these circumstances, should not entail any interest. The University would not be able to shoulder the burden of interest considering the number of workers involved in these cases as well as several other workers, who are said to be in larger number before the Industrial Court, Ahmednagar.

37 As held herein above, since the Payment of Gratuity Act was a legal obligation cast upon the University, Section 7(3-A) becomes squarely applicable. The Workers have waived interest upto 2005. The entire gratuity amount, as assessed by the Controlling Authority, has been deposited by the University before the Appellate Authority on 16.01.2012. As such, the issue of interest will have to be considered only for the period from January, 2006 upto December, 2011, which is a period of six years.

38 Considering the fact that the University is not a private establishment or industry or a cash rich company as well as the fact that the Workers have been in litigation from 2006 till this date, over a period of 10 years, I deem it proper to grant interest at the rate of 6% per annum on the gratuity amounts as are held payable by the Controlling Authority for the period of six years from January, 2006 till December, 2011. Since the amounts have been deposited with the Appellate Authority in January, 2012, the said amounts must have generated interest and the said accumulated interest would also be payable to these Workers.

39 Needless to state, the Workers are at liberty to withdraw the gratuity amounts along with accrued interest from the Appellate Authority which is the Industrial Court at Ahmednagar. The University shall calculate the interest component as directed in this judgment for the period as mentioned above and pay the said amount directly to these Workers within a period of SIXTEEN (16) WEEKS from today.

40 In the light of the above, Writ Petition Nos.3688, 3689, 3692, 3693, 4378, 4379, 4380, 4381 and 4382 of 2016 filed by the University stand dismissed. Rule is discharged.

41 Insofar as Writ Petition Nos.6789 to 6829 of 2016 and Writ

Petition No.7083/2016 filed by the Workers are concerned, they are partly allowed to the extent of interest granted by this Court in the foregoing paragraphs. Rule is made partly absolute accordingly.

(RAVINDRA V. GHUGE, J.)