

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3087 OF 2013

1. Rajabai W/o Pandoji Kshirsagar,
Age : 90 Years, Occu. : Nil,
R/o. At Post Sawargaon (Mal),
Tq. : Hadgaon, District : Nanded .. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32
2. Freedom Fighters' High Power Committee,
New Administrative Building,
8th Floor, Mantralaya,
Mumbai-32,
Through its Member Secretary / Chairman
3. The Desk Officer,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32
4. The Collector,
Nanded .. Respondents

WITH

WRIT PETITION NO. 3086 OF 2013

- Purbhaji S/o Ramji Tule,
Age : 89 Years, Occu. : Nil,
R/o. At Post Sawargaon (Mal),
Tq. : Hadgaon, District : Nanded .. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
General Administration Department

(Freedom Fighters Section),
Mantralaya, Mumbai-32

2. Freedom Fighters' High Power Committee,
New Administrative Building,
8th Floor, Mantralaya,
Mumbai-32,
Through its Member Secretary / Chairman

3. The Desk Officer,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32

4. The Collector,
Nanded

.. Respondents

WITH

WRIT PETITION NO. 3140 OF 2013

Khandasinh S/o Sujansingh Kamthekar,
Age : 92 Years, Occu. : Nil,
R/o. Khalsa Colony, Block No. 7,
Gawalipura, Near Railway Station,
Nanded, Tq. and Dist. : Nanded

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32
2. Freedom Fighters' High Power Committee,
New Administrative Building,
8th Floor, Mantralaya,
Mumbai-32,
Through its Member Secretary / Chairman
3. The Desk Officer,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32

4. The Collector,
Nanded .. Respondents

WITH

WRIT PETITION NO. 3212 OF 2013

Gangadhar S/o Tukarampant Deshmukh,
Age : 83 Years, Occu. : Nil,
R/o. Sawargaon, Tq. : Hadgaon,
District : Nanded .. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32
2. Freedom Fighters' High Power Committee,
New Administrative Building,
8th Floor, Mantralaya,
Mumbai-32,
Through its Member Secretary / Chairman
3. The Desk Officer,
General Administration Department
(Freedom Fighters Section),
Mantralaya, Mumbai-32
4. The Collector,
Nanded .. Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
Smt. S. S. Raut, A. G. P. for Respondent Nos. 1 and 4.
Shri Bhushan Kulkarni, Advocate for Respondent Nos. 2 and 3.

CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.

DATE : 04TH FEBRUARY, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

1. Rule.
2. Rule returnable forthwith. With the consent of parties taken up for final hearing.
3. In all these four matters the claim of the petitioners for grant of Freedom Fighter Pension on account of having participated in the “Hyderabad Mukti Sangram” has been rejected.
4. Mr. Panpatte, the learned counsel for the petitioners submits that, in all these matter the Zilla Gaurav Samiti has recommended the grant of Freedom Fighter Pension to these petitioners. In two matters even High Power Committee had recommended, however, the State had rejected the same. Upon rejection of the claim of the petitioners for grant of Freedom Fighter Pension the petitioners had approached this Court. This Court set aside the orders and remanded the matter for fresh consideration. Even, after remission of matter the State Government rejected the claim / proposal on the same grounds which were set aside by this court. According to the learned counsel, this Court while remitting the matter had directed the Government to indicate why the recommendations were negated. However, while negating the claim of the petitioners the same were rejected on the ground that affidavit is not enough. The learned counsel submits that, the same is not in consonance with the order of this Court. According to the learned counsel, the petitioners satisfy all the ingredients of the Government Resolutions of the year, 1992 and 1995.

5. Mr. Kulkarni, the learned counsel states that, the State Government has considered all the relevant aspect of the matter and has rightly rejected the claims. The evidence was insufficient for grant of Freedom Fighter Pension. The whole record was considered. Recommendation of the two freedom fighters is not a certificate and as such, there is no compliance of the Government Resolutions.

6. We have considered the submissions.

7. The petitioners are age old persons claiming the benefit of the scheme promulgated by the Government for grant of Freedom Fighter Pension to those who have participated in the freedom struggle i.e. Hyderabad Mukti Sangram. The petitioners claim to have participated by going under ground and because of which they had to forego their education and reside away from the homes.

8. In all these matters the Zilla Gaurav Samiti has recommended the claim of the petitioners for grant of Freedom Fighter Pension. In two matters even High Power Committee has recommended the claims. It appears that, initially the claims were rejected by the State and these petitioners has approached before this Court. This Court directed the Government to reconsider the recommendations and if, it wanted to ignore the same it should indicate why these two recommendations were incorrect. The recommendations were in the shape of affidavits of two freedom fighters who have undergone imprisonment of two years or more. The impugned order nowhere states that the affidavits of these two freedom fighters were not in accordance with the requirements. The Government has also not raised any doubt about these two persons i.e. Mr. Mungal and Mr. Panchal

have suffered imprisonment of two years or more in the said freedom struggle. Even, the Government does not dispute the contents of the affidavit. If, it does not dispute the contents of their affidavit it has to be accepted. The impugned order only says that, those affidavits and its contents do not amount to a certificate. The said observation is improper. We could have accepted the said reason had the Government discarded the said affidavit or would have expressed doubts about the contents of the affidavit, however, that is not the case. Even, certificate is issued by the Police Patil to the effect that the petitioners were required to reside away from their houses. All the ingredients as laid down in the Government Resolution are satisfied. Even, after remitting the matter the State has committed the same mistake. We cannot drag these age old persons to litigate in perpetuity. This is not a adversarial litigation. Considering the voluminous documents produced on record, there is no doubt about the participation of these petitioners in the freedom struggle. Their claim is supported by the recommendations of Zilla Gaurav Samiti and in two matters even of High Power Committee.

9. Considering the aforesaid aspects of the matter, the impugned order is quashed and set aside.

10. Rule is made absolute in terms of prayer clause "C". No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]