

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

Writ Petition No. 5100 of 2013

District : Beed

Sitaram s/o. Subhanrao Dhande,
Age : 80 years,
Occupation : Nil,
R/o. shahu Nagar, Beed.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Freedom Fighters Section,
Mantralaya,
Mumbai - 400 032.
2. President,
Swatantrya Sainik Pension,
High Power Committee,
Mantralaya, Mumbai - 32.
3. Desk Officer,
General Administration Department,
Freedom Fighters Section,
19th Floor, Opposite Mantralaya,
Mumbai - 400 032.
4. The Collector,
Beed,
District : Beed.

.. Respondents.

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Mr. V.S. Panpatte, Advocate, for the petitioner.

*Mr. V.H. Dighe, Asst. Government Pleader, for
respondent nos.1, 3 and 4.*

*Mr. Bhushan B. Kulkarni, Advocate, for
respondent no.2.*

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 3RD MARCH 2016

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

1. Heard the learned Counsel for respective parties.
2. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.
3. Application of the petitioner for grant of freedom fighter's pension has been rejected. Mr. Panpatte, the learned Counsel for the petitioner, submits that initially Zilla Gaurav Samiti had recommended the claim of the petitioner in the year 1999. However, decisions were not being taken. Again the matter was referred to Zilla Gaurav Samiti who subsequently did not recommend the claim of the petitioner. The learned Counsel submits that the High Power Committee in 2009 arrived at a decision. The petitioner filed Writ Petition bearing No. 9168 of 2010. This Court vide order dated 31st July 2012, partly allowed the said Writ Petition. This Court observed that though District Honour Committee submitted a negative recommendation on the proposal of the petitioner, there are no reasons recorded. The Court directed the High Power Committee to give a fresh look to the matter and to find out whether the

petitioner has complied with requirement of Government Resolution dated 4th July 1995. This Court also observed that the respondents are not in a position to point out from any order or any document, a specific finding that the two persons who had submitted affidavit, had not undergone imprisonment for two years. This Court found the last sentence of the order impugned therein to be inconsistent with the earlier part of the order. As such, this Court had set aside the said order and directed to have a fresh look into the matter.

4. The learned Counsel for the petitioner submits that after the matter was remitted back, two Members of the High Power Committee i.e. the State Minister and the Principal Secretary had recommended the grant of freedom fighter's pension. However, it is only the Hon'ble the Chief Minister who had stated that the petitioner does not fulfill the necessary criteria. According to the learned Counsel, the Hon'ble Chief Minister alone cannot decide it when the decision has to be as per the majority and the majority Members of the High Power Committee are in favour of the present petitioner. The learned Counsel submits that the petitioner complies with the Government Resolution dated 4th July 1995. The certificate of Ex-Police Patil stating that the petitioner had to leave his house and education is filed. Three affidavits of the freedom fighters who had undergone imprisonment of two years and more are also filed on record wherein they had stated about the acts done by the present petitioner and the factum of the petitioner having been required to leave his house and education. According to the learned Counsel, notings and the reasons are also given by the Members of the High Power Committee as to how the petitioner fulfills the conditions therein.

5. Mr. Kulkarni, the learned Counsel for respondent no.2 - Committee, submits that the Hon'ble Chief Minister is also Member of the Committee and he has passed an order that the petitioner does not conform to the requirements. According to the learned Counsel, the petitioner does not satisfy Clause 1 of the said Government Resolution i.e. there is no record to show that the petitioner had suffered permanent disability or that he was required to leave his house and education. According to the learned Counsel, the order does not require any interference.

6. We have considered the submissions canvassed by the respective parties and the earlier orders passed by this Court. It would appear that initially Zilla Gaurav Samiti had recommended claim of the petitioner. It appears that subsequently it was again referred back and subsequently negative recommendation is given by Zilla Gaurav Samiti.

7. This Court in Writ Petition No. 9168 of 2010 vide order dated 31st July 2012, had set aside the earlier order of the Committee and directed the Committee to have a fresh look into the matter.

8. It would appear that the Members of the Committee have come to the conclusion that the affidavits submitted by the petitioners of the freedom fighters are as per the requirement i.e. these freedom fighters have suffered imprisonment of two years and more in the Hyderabad Liberation Movement. These persons have specifically stated in the affidavit about participation of the present petitioner along with them. Specific instances are also given in the said affidavits. They have also

categorically stated about the petitioner being required to leave his house and education and stay in the camps.

9. The conditions laid down in the Government Resolution are satisfied. Moreover, majority of the Members of the High Power Committee had recommended the proposal of the petitioner. It is only the Hon'ble Chief Minister who has put a negative remark.

10. Considering the aforesaid conspectus of the matter, the Writ Petition is allowed. The impugned order is quashed and set aside. Rule is made absolute in terms of prayer clauses “C(i)” and “C(iii)” which read as under :-

“C(i) Quash and set aside the decision dated 25-8-2009 by which the claim of the petitioner for grant of pension is rejected.

C(iii) Direct the respondents to forthwith issue to the petitioner Sanman patra and pay to the petitioner Sanman pension regularly and pay arrears of pension from the date of application i.e. 9th October 1990 and extend to the petitioner all benefits application to Underground Freedom Fighter under the Scheme.”

Arrears of freedom fighter's pension be paid to the petitioner expeditiously and preferably within four months from today.

11. In the circumstances of the case, there shall be no order as to costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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