

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.8185 OF 2013**Ramling S/o Namdeo Aaskule Vs. The State of Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.U.Shelke, advocate for the petitioner.
Mr.S.M.Ganachari, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.**
Date : 14.07.2016.

PER COURT :

1. Heard.
2. The claim of the petitioner seeking Freedom Fighter pension for having participated in Hyderabad Mukti Sangram is rejected.
3. Mr.Shelke, learned counsel for the petitioner submits that the petitioner had given an application on 27.7.1995, seeking grant of Freedom Fighter pension. According to the learned counsel, the petitioner worked as an underground Freedom Fighter Kharda Camp, under the leadership of Raghunath Kisanrao Teke. The learned counsel submits that District Gaurav Committee had recommended the claim of the petitioner, however, the State Government rejected the said claim. The Desk Officer could not

have sat over the recommendation of the Zilla Gaurav Samiti. The learned counsel relies on the judgment of the Division Bench of this Court in the case of **“Raghunath Gajanan Waingankar Vs. State of Maharashtra and others”** reported in **2004 (1) Mh.L.J.513**. The learned counsel further submits that the petitioner had filed affidavits of two Freedom Fighters who have undergone imprisonment of two years and more. Apart from the said two affidavits, the petitioner had filed affidavits of two more Freedom Fighters who have worked along with the petitioner. The said affidavits have not been taken into consideration by the authorities. In fact, nothing has been stated in the order in that regard. The learned counsel submits that the proof beyond reasonable doubt is not required and on probabilities the claim has to be considered. The learned counsel relies on the judgment of the Apex Court in the case of **“Kamlabai Sinkar Vs. State of Maharashtra and others”** reported in **(2012) 11 Supreme Court Cases 754**. According to the learned counsel, the petitioner is entitled for the Freedom Fighter pension from the date of his application.

4. We have heard the learned A.G.P. also.

5. There can not be any dispute with the proposition that the case of the petitioner for grant of Freedom Fighter pension has to be decided on the basis of preponderance of probabilities and not on the touch stone of beyond reasonable doubt. In the present

matter it is not a case that the Desk Officer has decided the claim of the petitioner. The Desk Officer has only communicated the order of the State Government. It is the High Power Committee/State Government who decides the claim.

6. It is a fact that detail reasons do not appear in the order. As such we have considered the case of the petitioner. The Apex Court in a case of **“State of Maharashtra and others Vs. Namdeo etc.”** reported in **2014 (3) Bom.C.R. 467**, has held that it would be unsafe to rely upon two affidavits without any further proof.

7. Apart from the affidavits, there is no other document or evidence to substantiate that the petitioner because of his participation as contended had to suffer any disability or had to leave his education or had to leave his residence. In view of the fact that there are no documents or evidence of any sort forthcoming, we can not persuade ourself to consider the case of the petitioner.

8. In light of the above, the Writ Petition is disposed of. No costs.

(K . K . SONAWANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.14.07.2016.

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