

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

WRIT PETITION NO. 8363 OF 2013

Kondaji S/o Bapuji Jadhav,
Age: 84 years, Occ: Agril.,
R/o : Songaon, Tq. Rahuri,
Dist. Ahmednagar.

...PETITIONER

versus

The State of Maharashtra
Through its Secretary,
General Administration Department,
Maharashtra State, Mantralaya,
Mumbai – 32
and others

...RESPONDENTS

.....

Mr. Gulab Rajale, Advocate for petitioner
Mrs.A.V. Gondhalkekar, AGP for respondents No. 1 and 3
Mr. Bhushan B. Kulkarni, Advocate for respondent No. 2

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

DATED : 21st JULY, 2016.

Order :-

1. Mr. Rajale, learned counsel for petitioner submits that petitioner had applied for freedom fighter pension for participating in "*Quit India Movement*." The "*District Gaurav Samiti*" had recommended the claim of the present petitioner, however, the authority of State without any application of mind rejected it. Learned counsel further submits that petitioner had submitted affidavits of three freedom fighters with whom the petitioner had worked and who had suffered imprisonment, however, the same have not been considered. Learned counsel submits that it would not be possible to collect other evidence of newspaper etc. Learned counsel further submits that affidavits filed by petitioner were

required to be considered in its proper perspective. To buttress his submission, learned counsel for petitioner relies on the judgment of division bench of this Court dated 23-04-2010, in *writ petition No. 2237 of 2009 (Vandna Prashant Deshmukh Vs. State of Maharashtra)*.

2. Learned counsel for the petitioner further submits that along with the affidavits of said freedom fighters the petitioner had filed their certificates of imprisonment, however, the same are also not considered.

3. Mr. Kulkarni, learned counsel for respondent No. 2 submits that petitioner did not comply the mandatory conditions. The petitioner is supposed to submit the affidavits of two freedom fighters, who have undergone imprisonment for a period of two years or more. However, only one affidavit of freedom fighter is filed, who has undergone imprisonment for a period of two years and affidavits of two freedom fighters are filed, who had undergone imprisonment for a period of three or seven months. No other affidavit is filed. The order is rightly passed.

4. We have heard learned counsel for Assistant Government Pleader.

5. The petitioner is required to prove his claim by preponderance of probabilities and certainly not beyond reasonable doubt. However, has to satisfy minimum requirements of Government Resolution dated 4th July 1995. Said Government Resolution requires filing of affidavits of two freedom fighters, who have suffered imprisonment for a period of

two years or more. Along with it, other condition, such as proof of having suffered disability or being required to leave education or his house or any news paper report about the petitioners involvement in the freedom struggle.

6. The petitioner did not comply with first mandatory condition though other condition may not be mandatory, but the first condition i.e. person who is claiming freedom fighter pension on the ground that he had participated in "*Quit India Movement*" has to submit affidavit of two freedom fighters, who had suffered imprisonment for a period of two years or more. The petitioner could furnish affidavit of only one freedom fighter, who had suffered imprisonment for a period of two years. Other two freedom fighters had suffered imprisonment either for a period of seven or three months. In view of that, no fault can be found with order passed by the authority of State while rejecting the claim of the petitioner.

7. Moreover, the claim of the petitioner is rejected in the year 1999 and the same is assailed in 2013. However, we have not considered the delay, as the matter is considered on merits.

8. In view of the above, grievance of the petitioner cannot be entertained, writ petition deserves to be dismissed.

9. As such, writ petition stands dismissed. No order as to costs.

Sd/-

[K. K. SONAWANE, J.]

MTK

Sd/-

[S. V. GANGAPURWALA, J.]