

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

WRIT PETITION NO.491 OF 2016

CHANDRAKANT BABASAHEB GARJE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners: Mr. Karpe Rahul R.
AGP for Respondents/State: Mr. S.G.
Karlekar.

Advocate for R.No.3 : Mr. S.T. Shelke.

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CORAM: S.S. SHINDE & SANGITRAO S. PATIL, JJ.

Dated: APRIL 01, 2016

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ORAL ORDER:

1. Since the issue involved in this petition is the same as was involved in Writ Petition No.9958 of 2014 and companion petitions decided on 25th August 2015, we propose to pass the same order in the present petition.

2. Rule. Rule made returnable forthwith. By consent of parties, the petition is taken up for final hearing.

3. This petition challenges the letters / orders directing recovery of annual increment amount from the petitioners' salary on account of non-completion of MS-CIT course within the stipulated time. Admittedly, the impugned order was passed without giving an opportunity of hearing to the petitioners. The law on this subject is settled by the judgment of the Supreme Court in the case of **Bhagwan Shukla s/o. Sarbjit Shukla Vs. Union of India and Others**¹. In the said judgment, the Supreme Court has held that when service condition is sought to be altered, the employee should get an opportunity of show cause. Such principle of natural justice must be followed. In this case, the petitioners are likely to suffer serious economic consequence if the order is not set aside. The order, therefore, deserves to be set aside. The respondents should be directed to give an opportunity of hearing to the petitioners. In view of this, the Writ Petition stands disposed of in terms of following order :-

1(1994) 6 SCC 154;

O R D E R

(I) The impugned letters / orders are quashed and set aside. The respondent - Zilla Parishad shall give an opportunity of hearing to the petitioners and thereafter pass appropriate order.

(II) This process shall be completed within a period of two (02) months.

(IV) Rule is made absolute in the above terms. Writ Petition stands disposed of. No costs.

(SANGITRAO S.PATIL, J) (S.S. SHINDE, J)