IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 11797 OF 2016

Shri. Patil Shirish Ghansham ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11798 OF 2016

Shri. Deshmukh Balasaheb Hanumant ...Petitioner
Versus
Chief Executive Officer And Ors ...Respondents

AND

Writ Petition NO. 11800 OF 2016

Shri. Kazi Jilanipasha Salmatsaheb ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors ...Respondents

AND

Writ Petition NO. 11802 OF 2016

Shri. More Umesh Ramchandra ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11803 OF 2016

Shri. Bhadange Manaji Prabhu ...Petitioners
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11804 OF 2016

Shri. Dhainje Ashok Dadu ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11805 OF 2016

Shri. Javed Mahhmad Mujawar ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11810 OF 2016

Shri. Tamboli Akbar Badshah ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 11811 OF 2016

Shri. Ghante Mallinath Bhimashankar ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

AND

Writ Petition NO. 12218 OF 2016

Shri. Kumbhar Suresh Anirudhha ...Petitioner
Versus
Chief Executive Officer, Zilla Parishad,
Solapur And Ors. ...Respondents

Mr.Amit M.Gharte, for the Petitioners in all the matters.

Mr.V.N.Sagare, AGP for the Respondent Nos.2 & 4 -State

Mr.Ameya Tamhane, for Respondent Nos.1 & 3 – Zilla Parishad.

CORAM : ANOOP V. MOHTA &
G.S. KULKARNI, JJ.

DATE : 26th October, 2016.

ORDER :

1. Heard the learned Counsel for the Petitioners, learned Counsel for Respondent Nos.1 and 3 and Mr.Sagare, learned AGP for Respondent Nos.2 and 4.

2. The Petitioners in this batch of petitions are aggrieved by the order dated 19 March 2016 passed by Respondent No.1 Chief Executive Officer, Zilla Parishad, Solapur whereby Respondent No.1 has directed recovery of the amount from the Petitioners which was paid to the Petitioners in view of order dated 16 February 2015 of the Chief Executive

Officer, Zilla Parishad, Solapur. The learned Counsel for the Petitioners submits that the impugned order is not justified relying on the decision of the Supreme Court in the case "***Syed Abdul Qadir & Ors. Vs. State of Bihar & Ors., (2009) 3 Supreme Court Cases 475)"***. It is submitted that the Petitioners are not issued any show cause notice. It is not a case of misrepresentation or fraud. It is submitted that without admitting, even if it is assumed that the impugned order is correct, even then the salary paid by the Respondent on wrong interpretation of rule, for which the Petitioners cannot be held responsible. It is submitted by the Petitioners that recover of the said amount would cause severe hardship to the Petitioner. It is therefore, submitted that the impugned order be quashed and set aside.

3. We have perused the averments in the Writ Petition as also the documents which are annexed to the paper book. We see much substance in the contention of the Petitioners. However, we do not wish to go into the merits of the matter inasmuch as the Petitioners have made representation to Respondent No.1 and 3. The representations of these Petitioners are of different dates, the fact remains as on date the representations are pending consideration of Respondent Nos.1 and 3 and are yet to be decided.

4. In the above facts and circumstances of the case, without examining the rival assertions of the parties, we feel it appropriate that Respondent Nos.1 to 3 shall consider the representations of the Petitioners on all issues as raised by the Petitioners in their representations. The representations be considered within a period of six weeks from receipt of this order. Respondent Nos.1 is directed to pass an order in accordance with law, after granting personal hearing to the Petitioners. All contentions of the parties on the merits of the matter are expressly kept open.

5. In the meantime, as so far as no steps for recovery have been initiated, we direct that till the representations are decided by appropriate orders, no recovery be undertaken against the Petitioners.

6. The Writ Petitions are disposed of subject to the above directions. No costs.

(G.S.KULKARNI, J.) ***(ANOOP V. MOHTA, J.)***