<u>IN THE HIGH COURT OF JUDICATURE AT BOMBAY</u>

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10508 OF 2014
WITH
CIVIL APPLICATION NO.835 OF 2017

Anil Nabhiraj Patil and Others ..Petitioners/Applicants

Vs.

Sangli, Miraj and Kupwad Mahanagar
Palika Shikshan Mandal, Sangli
and Others ..Respondents

Mr. T. S. Ingale, for the Petitioners/Applicants in WP and CA.
Mr. U. R. Mankapure, for Respondent Nos.1 to 3 in WP and CA.
Mrs. R. M. Shinde, AGP, for Respondent Nos.4 and 5 in WP and CA.

CORAM:-**B.R.GAVAI & B. P. COLABAWALLA,JJ.**
DATE :- **DECEMBER 13, 2017.**

<u>P. C.:</u>

The Petitioners have approached this Court seeking a direction to Respondent Nos.1 and 2 to forthwith release and transfer the Provident Fund amount accumulated in their names till the month of July 2007 to the new account at Union Bank of India, Branch Sangli. The Petitioners have also prayed for release and deposit the amount of Rs.54,06,728/- , which according to the Petitioners is illegally withdrawn from the Provident Fund of the Petitioners.

2 The issue is no more *res integra.* The Division Bench of this Court in Writ Petition No 1809 of 2013 vide its order 22nd March, 2016 has held thus:-

> "10. Under clause (d) of section 3 (2) of the Repeal Act, all debts,liabilities and obligations incurred by School Boards and Local Committees, immediately before the commencement of the Repeal Act and lawfully subsisting against any such School Boards and Local Committees shall be discharged and satisfied by the concerned local authority.
> 11. Under clause (h) of section 3(2) of the Repeal Act, the Provident Fund, Gratuity, Pension and other benefits payable to the teaching and non-teaching employees of schools established under the repealed Acts, shall be maintained and paid by the concerned local authority as per the existing policy under the repealed Acts and the Rules made thereunder.
> 12. The above provisions abundantly make it clear that respondent No.3 is under an obligation to discharge the liabilities of respondent No.1. Respondent No.3 is duty bound to pay to the petitioners amount of Provident Fund with interest accrued thereon and the difference in dearness allowance for the period between January, 2002

and July, 2003 alongwith interest accrued thereon."

3 It could be thus seen that its concluded that the liability to pay the Provident Fund, Gratuity, Pension etc of teaching and non-teaching employees would be on the Respondent corporation. The Respondent Corporation has filed an affidavit of one Smruti Patil, Deputy Commissioner of the Corporation stating therein that the amount of the Petitioners is stuck up in the banks which are gone under liquidation. It has further been stated that the Corporation has taken a positive decision to pay the amount of 14 retired persons on priority basis.

4 A mere assurance to make the payment would not solve the problem of retired employees unless actual money comes to them. This assurance is of no use.

5 In that view of the matter, we direct the Respondent Municipal Corporation to pay the Provident Fund dues of the Petitioners who have retired from service as

expeditiously as possible and in any case within a period of four weeks from today. We make it clear that in the event the payment is not made to the retired employees, we shall be constrained to take such steps including directing auctioning of the property of the Corporation for releasing the amount payable to the Petitioners. The Writ Petition is disposed of accordingly.

6 In view of the disposal of the Writ Petition, nothing survives in Civil Application No.835 of 2017 and the same is also disposed of as such.

7 Stand over for four weeks "for compliance".

(B. P. COLABAWALLA, J.) **(B. R. GAVAI, J.)**