

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4888 OF 2006

The State of Maharashtra & Ors.	...	Petitioners
V/s.		
Raosaheb G. Bhalerao & Ors.	...	Respondents

- Ms.M.S. Bane, 'B' Panel Counsel for the Petitioners.
- Mr.N.V. Bandiwadekar for the Respondents.

**CORAM : S.V. GANGAPURWALA AND
A.M. BADAR, JJ.**

DATE : 21st JULY, 2017.

PER COURT :

1] The learned AGP submits that order of quashing the conditions in the Government Resolution Dated 6th September, 2005 is erroneous. Pursuant to the said Government Resolution, the Respondents were absorbed as such; “they are bound by the said terms and conditions by the said Government Resolution”.

2] According to the learned AGP, the Respondents cannot approbate and reprobate. On one hand they are taking the benefit of Government Resolution and on another hand are assailing the terms and conditions of the said Government Resolution.

3] The learned counsel for the Respondents supports the order and submits that the said conditions impugned before the Tribunal are onerous conditions. The Respondents were declared as surplus and therefore, directed to be absorbed. While absorbing the onerous conditions could not have been imposed. The learned counsel submits that almost all the Respondents have attained the age of superannuation or on the verge of superannuation.

4] We have considered the submissions canvassed by the learned counsel for the respective parties.

5] This Court under order dated 10th August, 2006 had admitted the present petition but had not granted any interim order in favour of the Petitioners. The Court also directed, the present petition to be heard along with Writ Petition No.2056 of 2000. The learned AGP states that the said Writ Petition is dismissed.

6] The Tribunal in its order has observed that the conditions could not have been incorporated by the Collector in the order of absorption. They were absorbed as they were declared surplus in the Department. The Tribunal relied on the judgment of this Court in Writ Petition No.2056 of 2000, dated 22nd January, 2008.

7] The Court has also observed that on the relevant date, the Applicant has crossed the age of 50 years.

8] Considering the fact that almost all the Respondents have attained the age of superannuation and must have retired from the service, we are not inclined to consider the present petition.

9] Writ Petition, as such, is dismissed. Rule is discharged.
No costs.

(A.M. BADAR, J.)

(S.V. GANGAPURWALA, J.)