

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

WRIT PETITION NO.797 OF 2017

Shri. Laxman Shivaji Godse & Ors. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

Mr. Yashodeep Deshpande i/b Sharayu S. Shinde, for the
Petitioners.

Mr. G. S. Godbole a/w Mr. S. S. Kothari, for the Respondent
Nos.7 and 8.

Mr. B. V. Samant, AGP for the Respondent Nos.1 to 3.

**CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**

DATE : 27 July 2017

ORDER :

1. Rule. Rule made returnable forthwith.
2. Heard by consent.

3. The Petitioners have approached this Court for seeking direction to the Respondents to ensure that the Respondent No.7 management shall implement the pay scale suggested by the 6th Pay Commission as applied by the Maharashtra Government to the teaching staff w.e.f. 1st January 2006.

2. Shri. Godbole, learned counsel appearing on behalf of the Respondent-Management vehemently opposed the prayer made in the Petition. He further states that the Petitioners proposes to rely on Clause 53 of Notification dated 4th January 2016, so as to raise the challenge to the Notification dated 5th March 2010.

3. Vide judgment and order dated 17th July 2017 in Writ Petition No.5402 of 2012 alongwith companion matter, we have already held that Clause 53 of the Notification dated 4th of 2016, has nothing to do with the applicability of Pay Commission.

4. This Court has already upheld the contention raised by the Petitioner herein in the judgment of Division Bench of this Court at Aurangabad Bench dated 10th February 2015 in Writ Petition No.6001/2013 (**Sanjay Shrirangrao Surwase & Ors. V/s State of Maharashtra & Ors.**). It is further to be noted that in the judgment delivered by the Lordships of the Apex Court in the case of **Secretary Mahatama Gandhi Mission & Another v. Bhartiya Kamgar Sena & Others**, reported in **2017 SCC OnLine SC 22**, their Lordships though have disagreed with the reasons given by the High Court, the ultimate conclusion arrived by the Division Bench has been upheld.

5. In that view of the matter we are unable to pursued ourselves to agree with the vehement position of Shri. Godbole. Rule is therefore made absolute in terms of paragraph 12 of the judgment dated 10th February 2015 passed by the Division Bench of this Court at Aurangabad in Writ Petition No.6001 of 2013. Needless to state that except the aforesaid issue, the judgment would not come in the way of rival parties, if they

have any rival claims beyond the scope of the said judgment.

6. The Respondents are directed to clear the arrears within a period of six (6) months.

7. No order as to costs.

[RIYAZ I. CHAGLA J.]

[B.R. GAVAI, J.]