

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 13153 OF 2017

1. Smt. Laxmibai Namdeo Shikare,
Age : 42 years, Occu. Service,
Primary Teacher, Zilla Parishad Girls Primary School,
Murum, Tq. Omerga, Dist. Osmanabad.
2. Smt. Suanta Namdeo Tambe,
Age : 36 years, Occu. Service,
Primary Teacher,
Zilla Parishad Central Primary School,
Washi, Tq. Washi, Dist. Osmanabad.
3. Smt. Shilpa Bhaskar Savane,
Age : 35 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Khandeshwarwadi, Tq. Paranda,
Dist. Osmanabad.
4. Smt. Madhuri Dileeprao Ganesh,
Age : 55 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Warwanti, Tq. & Dist. Osmanabad.
5. Shri. Dhananjay S/o Baliram Dhage,
Age : 37 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Kumbhephal, Tq. Paranda,
Dist. Osmanabad.
6. Shahaji S/o Jagannath Rasal,
Age : 38 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Nalgaon, Tq. Paranda, Dist. Osmanabad.

7. Saudagar S/o Dnyandeo Jagdale,
Age : 41 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School, Karla,
Tq. Paranda, Dist. Osmanabad.
8. Santosh S/o Dnyandeo Jagdale,
Age : 38 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Ingonda, Tq. Paranda, Dist. Osmanabad.
9. Smt. Unnati Tukaram Veer,
Age : 36 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Bembali, Tq. & Dist. Osmanabad.
10. Vivekanand S/o Vishnupant Mitkari,
Age : 37 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Tamalwadi, Tq. Tuljapur, Dist. Osmanabad. ... Petitioners

VERSUS

1. The State of Maharashtra
Through the Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Director of Education,
(Integrated Education for Disabled Children Department)
Dr. Anny Besant Road,
Central Building, Pune.
3. The Deputy Director of Education,
Aurangabad Region, Aurangabad.
4. The Chief Executive Officer,
Zilla Parishad, Osmanabad.
5. The Education Officer (Primary),
Zilla Parishad, Osmanabad.

6. The Block Education Officer,
Panchayat Samiti, Osmanabad.
7. The Block Education Officer,
Panchayat Samiti, Washi,
Dist. Osmanabad.
8. The Block Education Officer,
Panchayat Samiti, Paranda,
Dist. Osmanabad.
9. The Block Education Officer,
Panchayat Samiti, Tuljapur,
Dist. Osmanabad.
10. The Block Education Officer,
Panchayat Samiti, Omerga,
Dist. Osmanabad.

... Respondents

.....
 Mr K. J. Ghute Patil, Advocate for the petitioners
 Mr K. N. Lokhande, AGP for respondent No. 1 to 3
 Mr Shambhuraje Deshmukh, Advocate for respondents No. 4 to 10

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 26TH APRIL, 2018.

ORAL JUDGMENT [PER S. V. GANGAPURWALA, J.] :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at the stage of admission.

2. Mr Kishor Ghute Patil, the learned counsel for the petitioners submits that the impugned order of recovery is passed against the petitioners without notice to the petitioners. By virtue of the impugned order, recovery is being claimed and repay fixation is done.

3. Mr Shambhuraje Deshmukh, the learned counsel for respondents No. 4 to 10 submits that the order is rightly passed. The excess payment is made.

4. It is a fact that, pursuant to the impugned order re-fixation of pay has been done and recovery is claimed. The same is without notice to the petitioners.

5. The cardinal and fundamental principles are violated. The order being prejudicial to the interest of the petitioners, the principles of natural justice ought to have been followed.

6. Considering the above, the impugned order is quashed and set aside. The impugned order be treated as Show-Cause Notice. The petitioners shall file their reply to the same within a period of one month. Upon receiving the reply from the petitioners, the

concerned authority shall take decision upon the applicability of pay scale and pass fresh orders.

7. Rule is made absolute in the above terms with no order as to costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde