

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.899 OF 2018

1. Appasaheb s/o Sangmeshwar Zadbuke,
Age : 48 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Phulwadi, Tq. Tuljapur,
District Osmanabad
2. Balaji s/o Uttam Wagare,
Age : 44 years, Occu. Service
Primary Teacher,
Zilla Parishad Primary School,
Toramba, Taluka and
District Osmanabad
3. Mahesh s/o Balasaheb Nimbalkar,
Age : 43 years, Occu. Service,
Primary Teacher,
Zilla Parishad Primary School,
Pachpimpala, Tq. Paranda,
District 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, Paranda,
District Osmanabad
8. The Block Education Officer,
Panchayat Samiti, Tuljapur,
District Osmanabad

RESPONDENTS

Mr. Kishor J. Ghute-Patil, Advocate for the petitioners
Mr. A.B. Girase, Govt. Pleader for the respondent/State
Mr. S.V. Deshmukh, Advocate for respondent Nos.4 to 8

**CORAM : CHIEF JUSTICE AND
N.M. JAMDAR, J.**

DATE : 14th DECEMBER, 2018

PER COURT :

Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.

2. The petitioners were the employees appointed under the Integrated Education for Disabled Children Scheme. The petitioners thereafter were absorbed under the local bodies of the State. The petitioners have approached this Court by way of this Writ Petition challenging the orders dated 5th September, 2017 and 22nd

September, 2017, issued by the Education Officer. By the impugned orders, recovery of salary paid to the petitioners is sought.

3. The learned counsel for the petitioners, relying upon the decision of this Court dated 26th April, 2018 rendered in Writ Petition No.13153 of 2017, contended that the recovery of the amount was entirely unjustified and was without notice to the petitioners. He submits that in Writ Petition No.13153 of 2017, in identical circumstances, the impugned orders were quashed and set aside.

4. The learned Government Pleader submitted that though the fact situation in the present case is identical as in Writ Petition No.13153 of 2017, the Division Bench of this Court in that case did not quash and set aside the recovery, but thereafter directed the authorities to take a decision upon giving an opportunity of reply to the petitioners.

5. We have perused the judgment and order dated 26th April, 2018 passed in Writ Petition No.13153 of 2017. No reason is shown why an identical course not be adopted in the present case.

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 pass order.

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

[N.M. JAMDAR, J.]

[CHIEF JUSTICE]

npj/wp899-2018