

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

WRIT PETITION NO. 2420 OF 2018

BHAGUBAI DEVIDAS JAVLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Pramod C. Mayure
AGP for Respondent No. 1 : Mr. K. N. Lokhande
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
....

WITH
WRIT PETITION NO. 1897 OF 2017

DHONDIBA S/o PRABHAKAR JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P. C. Mayure h/f. Mr. Viabhav B. Dhage
AGP for Respondents No. 1 to 4 : Mr. K.N. Lokhande
Adv. for Respdt – M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
....

WITH
WRIT PETITION NO. 2120 OF 2017

HASINABI ABDUL SALAM SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P. C. Mayure h/f. Mr. Ashok S. Pavse
AGP for Respondents No. 1 and 2 : Mr. K.N. Lokhande
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
....

WITH
WRIT PETITION NO. 2124 OF 2017

RAMESH HARIBHAU ZENDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P. C. Mayure h/f. Mr. Ashok S. Pavse
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
....

WITH
WRIT PETITION NO. 7976 OF 2017

SMT. SANGITA ASHOK SAPTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P. C. Mayure h/f. Mr. Sanjay D. Kotkar
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Advocate for Respondent No. 3 : Mr. T. M. Tandale
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar

....

WITH
WRIT PETITION NO. 10156 OF 2017

SURYAKALA WD/O SANTOSH BAKAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P. C. Mayure h/f. Mr. Ashok S. Pavse
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar

....

WITH
WRIT PETITION NO. 12197 OF 2017

SMT. NANDABAI W/O SUNIL RAJPUT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P. C. Mayure
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Advocate for Respondent No. 3 : Mr. T. M. Tandale
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar

....

WITH
WRIT PETITION NO. 12198 OF 2017

SUVARNA WD/O GANESH PANDIT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. P.C. Mayure
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Advocate for Respondent No. 3 : Mr. T. M. Tandale
Adv. for Respdt.- M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar

...

WITH
WRIT PETITION NO. 12222 OF 2017

SMT. MEERA WD/O PRABHAKAR GHORPADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P. C. Mayure
AGP for Respondents No. 1 and 2: Mr. K.N. Lokhande
Advocate for Respondent No. 3 : Mr. T. M. Tandale
Adv. for Respdtd.– M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
...

WITH
WRIT PETITION NO. 12287 OF 2017

SMT. KAUSHABAI WD/O RJARAM DONGRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P.C. Mayure
AGP for Respondents No. 1 : Mr. K.N. Lokhande
Advocate for Respondent No. 2 : Mr. T. M. Tandale
Adv. for Respdtd.– M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
...

WITH
WRIT PETITION NO. 2421 OF 2018

KASTURABAI WD/O NARAYAN BARADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P. C. Mayure
AGP for Respondents No. 1 : Mr. K. N. Lokhande
Advocate for Respondent No. 2 : Mr. T. M. Tandale
Adv. for Respdtd.– M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
...

WITH
WRIT PETITION NO. 9952 OF 2018

JANABAI NIVRUTTI SANGLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P.C. Mayure
AGP for Respondents No. 1 : Mr. K. N. Lokhande
Adv. for Respdtd.– M/s National Insurance Co. Ltd.: Mr. Ajit B. Kadethankar
...

**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 27th NOVEMBER, 2018

Order :-

All these Writ Petitions are taken up for hearing since facts and issue involved are similar and identical one.

2. It is the contention of learned counsel appearing for petitioners that the issue raised in these petitions is, '*no longer res-integra*', and answered by the Order passed by the Division Bench of this Court (Coram : R.M. Borde and V.K Jadhav, JJ.) in Writ Petition No. 9650 of 2014, dated 30th April, 2015. It is submitted that the Division Bench of this Court had an occasion to consider Clause 21 of the Government Resolution dated 4th December, 2009, and it is held that said clause cannot be considered to be mandatory and the benefits of the scheme framed for social advancement cannot be denied to the heirs of the deceased. It is submitted that Clause 21 of the aforesaid Government Resolution provided for submitting driving license is again mentioned in the agreement dated 24th February, 2016 between the Government of Maharashtra on behalf of the individual farmers, who are actually insured through Commissioner (Agriculture) (First Part), M/s. Bajaj Capital Insurance Broking Limited (Second Part) and respondent – M/s. National Insurance Company Limited (Third Part). It is submitted that Clause 21 of the said Government Resolution has been considered and held as not mandatory.

3. On the other hand, learned counsel appearing for respondent-M/s. National Insurance Company Ltd. invites our attention to Clause 21 of the aforesaid Government Resolution, also Clause (VI) of the said agreement and submits that the petitioners are not entitled for the relief as claimed in the petitions.

4. We have considered the rival submissions advanced on behalf of both side. While dealing with the identical issue in Writ Petition No. 9650 of 2014, Clause 21 of the aforesaid Government Resolution has been considered and explained by the Division Bench (Coram : R.M. Borde and V.K Jadhav, JJ.) of this Court, in the Order dated 30th April, 2015. The relevant portion of the said order reads as under :-

"1. A proposal for extension of benefits under Shetkari Apghat Vima Yojan has been rejected on the ground that the agriculturist, whose heirs are claiming compensation, died in an vehicular accident, was not possessed of a valid driving licence. On perusal of first information report lodged in respect of occurrence of accident, it does not appear that any charge in respect of driving the vehicle without valid licence has been incorporated. Apart from this, the scheme itself stipulates presentation of only four documents together with the proposal, which condition has been fulfilled by the petitioners. Prima facie, clause 21 contained in the Government Resolution cannot be considered to be mandatory and the benefits of scheme framed for social advancement cannot be denied to the heirs of the deceased. In the facts of the case, we direct the respondent No. 4 to deposit a sum of Rs. 1,00,000/- in this court within a period of six weeks from today. Stand over to 15-06-2015." (emphasis supplied)

5. Upon careful perusal of clause (VI) in the said agreement, it is nothing but reproduction of contents of Clause 21 of the aforesaid Government Resolution.

6. In the light of above and since the issue raised in these petitions is, '*no longer res-integra*', and answered in the Order dated 30th April, 2015 passed by the Division Bench (Coram: R.M. Borde and V.K. Jadhav, JJ.) of this Court. As a corollary, petitions succeed. Accordingly, all the Writ Petitions are allowed.

7. It appears that the amounts as directed earlier by this Court under order dated 22-10-2018 has been deposited by the respondent – Insurance Company in the Registry in respect of each petitioner in respective petitions. Since, we have allowed the petitions, we permit the petitioners to withdraw the said amounts. Registrar (Judicial) to ensure disbursement of such deposited amount in the manner as prescribed in clause (X) of the agreement dated 24-02-2016 [Exhibit-D Page No. 30 of the Writ Petition No. 2420 of 2018], however, upon furnishing proof of identity by the petitioners to the satisfaction of Registrar (Judicial) of this Court.

8. With the above observations, all the Writ Petitions stand disposed of.

[K. K. SONAWANE, J.]

[S. S. SHINDE, J.]