

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

WRIT PETITION NO.2277 OF 2019

**RANJANA KRISHNA SORMARE AND OTHERS
VERSUS**

THE COMMANDING OFFICER LT COL WELFARE OFFICER AND OTHERS

Mr.Mahesh K. Bhosle, Advocate for the petitioners
Mr.Amol N. Patale, Advocate for respondent Nos. 1 and 2

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 26.02.2019

P.C. :-

. Petitioner No.1 is the natural guardian of petitioner Nos.2 and 3 who are the minors daughter and son respectively of respondent No.3. The petitioners are before this Court with two basic prayers. These prayer clauses read thus:

A] By issuing the appropriate writ, order, direction or any other appropriate order in the nature of writ, the Hon'ble High Court may be pleased to direct respondent No.1 and 2 to withheld the family pension, gratuity, provident fund and other retiral benefits of respondent No.3 until share of petitioners is not disbursed.

B] By issuing the appropriate writ, order, direction or

any other appropriate order in the nature of writ, the Hon'ble High Court may be pleased to direct respondent No.1 and 2 to calculate the share of petitioners in family pension, gratuity, provident fund and other retiral benefits of respondent No.3 and pay it to petitioners separately.

2. Learned counsel for the petitioners by inviting our attention to the documents placed on record submitted that petitioner No.1 approached the Commissioner of Police by submitting a complaint on 24.06.2015 with a grievance that respondent No.3 is misbehaving and also indulged in the act of violence and is not taking proper care of the family including the children. Parties namely petitioner No.1 and respondent No.3 entered into an agreement/settlement/compromise. Our attention was also invited to certain proceedings initiated by petitioner No.1 firstly; proceeding under the provision of Domestic Violence Act and the order passed by the Learned Judicial Magistrate, First Class, Aurangabad dated 15.11.2016. It seems that the said proceeding subsequently resulted in the final order passed by the Judicial Magistrate, First Class, Aurangabad on 20.07.2018. The application seems to be partly allowed with certain directions. It is the submission of the learned counsel for the petitioners that respondent No.3 is on the verge of the retirement

and even though the distress warrant is issued by the Magistrate, it is the apprehension of petitioner No.1 that respondent No.3 would neither pay any attention to the distress warrant nor pay any heed to the orders of this Court and also would not follow the terms of agreement/settlement/compromise/undertaking. It is then submitted by the learned counsel for the petitioner that if the petitioners fails to follow the terms of agreement / settlement/compromise/undertaking the petitioners would be deprived of share in family pension. As such the petitioners are approached this Court with the prayer clauses A & B of the petition.

3. Considering the documents placed on record and the submission of the learned counsel for the petitioners we are unable to show any indulgence in the petition in so far as the prayers in the petition are concerned. It seems that the petitioners are approaching on erroneous assumption and presumption to this Court with the prayer clauses A & B. On perusal of the material it revealed that the petitioners have submitted representations to respondent Nos. 1 and 2. The latest representation submitted to the authority i.e. respondent No.2 Records Officer, ASC Record South, Bangalore is 30.01.2019 pending for decision.

4. Considering this, we are of the opinion that only the grievance in respect of non-decision of the application submitted to respondent No.2 on 30.01.2019 can be addressed and redressed by us by issuing directions to the authority as such notice is issued returnable forthwith. Mr.Patale, Learned counsel waives service of notice for respondent Nos. 1 and 2.

5. Accordingly, the petition is disposed of with direction to respondent Nos.1 and 2 and more particularly respondent No.2 to decide the application/representation dated 30.01.2019 as expeditiously as possible and not later than 10 weeks from the date of order of this Court, if it is not already decided, needless to state on merits of the application. The authority may also verify the record and if is of an opinion that opportunity of hearing be granted to the parties, he may offer such an opportunity of hearing.

6. With the above directions, the petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]