

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

**CIVIL APPLICATION NO.4534 OF 2019
IN WP/2626/2014**

SANDESH NARSINGRAO PHULKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. M.S.Karad, Advocate h/f. Mr. S.S.Thombre, Advocate for applicants
Mr. A.M.Phule, AGP for respondent nos.1 to 6, 8 and 10

**CORAM : SUNIL P. DESHMUKH
AND
R.G. AVACHAT, JJ.
DATE : APRIL 05, 2019**

PER COURT

Heard learned Counsel for applicants.

2. There is no dispute that applicants/petitioners have been appointed on or before 31.10.2015 and their school has been receiving 100% grant-in-aid before 2010. The school had been receiving partial grant-in-aid on the relevant date i.e. 01.11.2005.

3. Learned Counsel for the petitioners submit that the question of applicability of the D.C.P.S. is being examined by a larger

Bench. They submit that the Division Bench of this Court at Principal Seat in the similarly situated petitions i.e. Writ Petition No.8387 of 2013 (Deshmukh Dilipkumar Bhagwan and ors. Vs. State of Maharashtra and ors.) and other companion petitions, vide order dated 30.08.2018, has formed the following questions :-

“1. Whether only those schools and colleges of education which are receiving 100% aid can be termed as the aided institutions or whether schools and colleges of education receiving less than 100% aid can also be termed as aided institution ?

2. Whether the employees who were appointed prior to 1st November, 2005 in the aided recognized primary, secondary and higher secondary schools as well as colleges of education which are receiving less than 100% grant-in-aid as on 1st November, 2015 are entitled to the benefit of Old Pension Scheme under the Pension Rules and the Commutation of Pension Rules or whether they will be governed by the New Pension Scheme under The GR of 2005 ?

3. Whether the employees who were appointed prior to 1st November, 2005 in the aided recognized primary, secondary and

higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 1st November, 2005 but which became 100% aided before the date on which the GR of 2010 came into force, are entitled to benefit of Old Pension Scheme under the Pension Rules and the Commutation of Pension Rules or whether they will be governed by the New Pension Scheme under the GR of 2005 ?”

4. It would be appropriate to note that several orders including order dated 28.10.2013 in writ petition no. 10089 of 2013 and companion matters (Maharashtra Rajya Madhyamik Vs. Uccha Madhyamik Shala Kruti Samittee Vs. The State of Maharashtra and ors.), order dated 18.12.2018 passed in writ petitions no. 1916 of 2014 (Tawase Shahuraj Baliram and ors. Vs. State of Maharashtra and ors.) and order dated 22.03.2019 passed in writ petition no.4141 of 2014 (Ramprabhu Dnyanoba Mote and ors. Vs. The State of Maharashtra and ors.) by this court, protecting the interests of the persons, who were similarly situated as that of the present applicants.

5. In view of the above, by way of interim relief, deduction towards G.P.F. be continued as per old pension scheme and

application of D.C.P. scheme be kept in abeyance to the extent of the petitioners, till the final disposal of the main Writ petition.

6. Civil Application stands disposed of accordingly.

[R.G. AVACHAT, J.]

[SUNIL P. DESHMUKH, J.]

kbp