

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

WRIT PETITION NO.5646 OF 2017

**AZARKHAN ALTAFKHA PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. E.S. Murge, Advocate for the petitioners
Mr. P.N. Kutti, AGP for the respondents/State
Mr. A.D. Aghav, Advocate for respondents No.3 and 4

**CORAM : SUNIL P. DESHMUKH &
S.M.GAVHANE, JJ.**

DATED : 02-07-2019

P.C. :-

1. Heard learned counsel for the parties.
2. Learned counsel for the petitioners draws our attention to an order dated 03-04-2019 in writ petition No.12699 of 2018 and companion writ petitions and also to an order dated 11-06-2019 in writ petition No.14797 of 2017 and another order passed by us, submitting that benefit of advance increments granted to the petitioners on account of excellent work in the years 2006 to 2009 is being sought to be withdrawn. Petitioners were given benefit of advance increments and were also paid accordingly. The amounts received by the petitioners on account of advance increments is sought to be recovered with reference to Government Resolution dated 24-08-2017.
3. Learned counsel for the petitioners also draws attention to that this court has declared that said government resolution dated 24-08-2017 will have prospective effect and not retrospective. While benefit of advance increment was accorded to the petitioners for excellent work in the years 2006, 2007, 2008 and 2009, the same is not liable to be withdrawn pursuant to government resolution dated 24-08-2017 and recovery made pursuant to

the same needs to be refunded to the petitioners. For said purpose, learned counsel for the petitioners refers to order dated 03-04-2019 in writ petition No. 12699 of 2018 and companion matters.

4. Perusal of the order lends substance to the submissions advanced on behalf of the petitioners and further shows that a similar view had been taken in writ petition No. 1954 of 2018 with other connected writ petitions under order dated 25-01-2019.

5. In view of aforesaid, we deem it appropriate to give similar treatment to present writ petition.

6. As such, while the petitioners have already been granted certificate/order of excellence in the years 2006, 2007, 2008 and 2009 and have been granted and have received benefit of advance increments/amounts as per policy of the government prevailing at that time, the same would not be withdrawn on the basis of subsequent government resolution dated 24-08-2017. Recovery, if any, made pursuant to government resolution dated 24-08-2017 from the petitioners shall be refunded to them.

7. Writ petition accordingly stands disposed of with no order as to costs. It is hoped that the increments/amounts, if any, recovered from the petitioners would be refunded as early as possible, preferably within a period of four months from the date of this order.

[S.M.GAVHANE,J.]

[SUNIL P. DESHMUKH,J.]