

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

WRIT PETITION NO.7189 OF 2014

Smt. Laxmibai wd/o Bapurao Kadam
Age 82 years, Occu. Nil,
R/o Barad Shevala, Tq. Hadgaon,
District Nanded

...PETITIONER

VERSUS

1. The State of Maharashtra
through its Principal Secretary,
General Administration Department,
(Freedom Fighters Section)
Mantralaya, Mumbai - 32
2. Freedom Fighter High Power Committee,
New Administrative Building,
8th Floor, Opp. Mantralaya,
Mumbai - 32, through its
Member Secretary
3. The Desk Officer
General Administration Department,
(Freedom Fighters Section),
Mantralaya, Mumbai - 32
4. The Collector,
Nanded

...RESPONDENTS

.....
Shri V.S. Panpatte, Advocate for petitioner
Shri A.S. Shinde, A.G.P. for State
Shri Bhushan Kulkarni, Advocate for R.No.2 and 3
.....

**CORAM: SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.**

DATED : 26th March, 2019

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.):

1. Petitioner is widow of one, Bapurao Madhavrao Kadam who had been an underground fighter in freedom struggle referred to as *Hyderabad Mukti Sangram*, during 1947-1948.

2. Government of Maharashtra, with a view to honour and assist, persons who had participated in the freedom struggle, has framed scheme referred to as "*Swatantrya Sainik Sanman Pension Scheme*". Object of the scheme is to provide economic help to freedom fighters and to pay tribute to persons who had fought and struggled for independence.

3. While petitioner's husband had been in need of economic support, pursuant to the aforesaid scheme, he had submitted an application. However, benefit of the scheme had been declined and said refusal had been subject matter of Writ Petition No. 5082 of 2011 and a division bench of the high court had disposed of the same on 30-08-2013 remitting the matter for reconsideration afresh, observing thus :-

5. *Only mentioning that the petitioner did not fulfill the requirements of the Government Resolution dated 4.7.1995 is not sufficient. **Such a conclusion can be reached only after discussing the evidence.** Here even the District Honour Committee was in favour of the petitioner. If the*

High Power Committee wants to discard that, it ought to have recorded elaborate reasons before reaching a conclusion to the contrary. That exercise is absent.

6. *Hence, the impugned order dated 31.10.2002 is quashed and set aside and the matter is placed back before the High Power Committee for fresh consideration according to law. The High Power Committee shall complete the exercise within three months from today.*

7. *With above directions, the petition stands disposed of with no order as to costs.*

4. The petitioner's husband - Bapurao Madhavrao Kadam died and could not benefit from the order.

5. Petitioner's husband had been active participant in the freedom struggle and had taken part in several activities, including supply of arms, weapons and secret information to volunteers, providing meals to senior volunteers, information of police movements to the workers, attack on police and campaign against the erstwhile *Nizam* Government. He had also been active participant in awareness session at Sawargaon during the *Razakar* movement, where in a sudden attack upon people/ freedom fighters, about 12 people/ freedom fighters were killed.

Along with him in the freedom struggle, Yashwant Marotrao Thakre, Govindrao More, Naik, Mugal, Gaikwad, Panchal, Yetalkar and others had participated as underground freedom fighters.

Her husband had also participated in Dorli *Satyagraha* under instructions of one Ganpatrao @ Ganya Yadavrao Tagadpalle. The *Satyagrahis* had arranged for Flag Saluting programme, in which about 4000 to 5000 *Satyagrahis* had participated under the leadership of Jaiwantrao Waipankar, Yadavrao Master, Pawar, Bansil Toshniwal.

The Nizam police had suddenly attacked the gathering and number of persons were killed and subsequently an offence came to be registered against unknown 3000 freedom fighters, including the petitioner's husband. The petitioner's husband had been engaged in several activities in the freedom struggle which have been more particularly referred to in the petition.

6. Benefits of '*Swatantrya Sainik Sanman Pension Scheme*' are also extended to the widows of freedom fighters, and accordingly, petitioner applied on 05-10-2013 as widow of deceased freedom fighter.

Petitioner had supported her claim to entitlement of

benefit under the scheme with affidavits of 9 freedom fighters and had also filed Police Patil's certificate and the efforts made by her seeking documents. Her claim had been approved and recommended by Zilla Gaurav Samiti.

7. Respondent no. 3 however, communicated the decision in the negative under order dated 26.2.2014 and the same is subject matter of present writ petition. Order has been issued under the signature of the section officer rejecting the claim of the petitioner, stating that on verification of the claim of the petitioner *vis-a-vis* requirements of the resolution dated 04-07-1995, there does not appear that any material and government record or report has been produced in respect of sufferings by the petitioner's husband as contained in sub-clauses (a) (b) and (c) of clause (1) and the husband being an underground freedom fighter. It has been observed that, the affidavits of Govindrao More, Nagorao Mungal, Vitthal Bhosale, Gangaprasad Yetalkar would be unreliable having regard to the report by Justice Palkar Committee. Since the same appears to be typed copy and blank spaces only were filled up in which their names and signatures were obtained. Though some material is produced, it is deficient of showing independent work in the freedom struggle by the deceased. It is also observed that, the certificate coming along with the affidavit of Shri Bhosale is unclear and affidavit of Shri Ganpatrao @ Ganya Yadavrao

Tagadpalle is deficient imprisonment certificate.

8. Learned counsel for the petitioner Mr. Panpatte vehemently submits that, the decision purporting to communicate rejection of the claim of the petitioner is an example of non-application of mind to the material provided along with the application. The approach is completely contrary to the intention underlying the provisions of the scheme. It is also a case of perfunctory approach. There is no objective appreciation of the material placed on record. He particularly submits that, the approach of the authority as required under the scheme should be determinative rather than adjudicative. He submits that, the decision has been taken by the Joint Secretary placing reliance on the notings of the section officer and the Hon'ble Chief Minister, in complete ignorance of the recommendations of the High Power Committee, despite the orders passed by the High Court in Writ Petition No.5082 of 2011, has approved the same. He further submits that, in the genuine case like that of the petitioner, the approach of the officers has been apathetic and tending to undermine the laudable object under the Scheme. He further submits that, the State Minister, who is to act as nominee of the Hon'ble Chief Minister, has recommended the case of the petitioner having regard to the Government Resolution dated 25-04-2000. The

Hon'ble Chief Minister, could hardly appreciate the case applying mind. He apparently went by the note put up by the Joint Secretary and purported to approve his remarks oblivious of the intervening events occurring. It does not appear that the attention of the Hon'ble Chief Minister had been drawn to relevant aspects particularly the recommendations of District Level Committee or the High Power Committee. Impugned order is based simply on the notings of the section officer. He submits that, while the petitioner's case has been recommended by the *Zilla Gaurao Samiti*, her case also has been recommended by the collector. He submits that, there is material produced to support the case of the petitioner with regard to leaving house and education by her husband. Police Patil's certificate shows the same. Decision, based on the notings by the section officer, especially when no contrary material has been made available and without giving any opportunity to the petitioner, is in infringement of the noble principles of natural justice. Further, he submits that, the freedom fighters who have been recognised by the Government of Maharashtra, had supported the case of the husband of the petitioner. There is affidavit of one Ganpatrao @ Ganya Yadavrao Tagadpalle, which is supported by charge sheet but his affidavit has not been considered for it being not accompanied by imprisonment order. There is no explanation coming forth as to why the affidavits of two other persons have

not been considered. The order does not refer even to recommendations by *Zilla Gaurao Samiti*. It is not the case of any one that petitioner's husband had not been participant in said agitation.

9. He submits that, the order is grossly cursory and hence, not compatible with various decisions. He purports to place reliance on the observations of the Supreme Court in the case of *Mukund Lal Bhandari Vs. Union of India* reported in *AIR 1993 SC 2127* about the noble cause to be served under the Scheme.

10. He contends that, factual position in present matter is quite close to factual situation involved in the decision of the Supreme Court in *State of Tamil Nadu & anr. Vs. A. Manickam Pillai* reported in *2010 AIR (SC) 670*. He particularly purports to put stress on that, in said decision it has also considered, after recommendations of High Power Committee, putting up the matter before the Hon'ble Chief Minister, is only a Ministerial act and as such, the rejection under the impugned communication is not sustainable.

11. He further relies on decision in the case of *Gurdial Singh Vs. Union of India & ors.* reported in *(2001) 3 SCC 8*.

12. The learned counsel for the petitioner contends that, the approach of the Committee shall not be one which would require addressing the test of “beyond reasonable doubt” and the approach of the State in such cases should be to propagate the cause rather than negate the same.

13. Learned counsel submits that, impugned communication depicts that, the rigour of exact compliance being applied in the present case over and above the intention underlying the scheme and submits that it would not be proper. Learned counsel also refers to the decision of this Court in case of *Punjaram Madhav Indewad Vs. The State of Maharashtra & ors.* (Writ Petition No.2632 of 2011), wherein in paragraph 6, it has been observed thus :-

*“ We find that similar orders passed have been set aside by this Court and those orders have not been assailed further by respondents. In this situation, to enable respondents to apply their mind afresh, we set aside the impugned communication dated 10/3/1999. **It is made clear that respondents have to grant Freedom Fighter's pension, if any one of the conditions stipulated in the Government Resolution dated 4.7.1995 is fulfilled.** Respondents shall accordingly apply their mind to the material on*

record and take necessary decision afresh within further period of 4 months. ”

14. Learned counsel for the petitioner submits that petitioner's case is supported with certificate by police patil. He refers to and relies on a decision of this Court in case of *Rajabai w/o Pandoji Kshirsagar Vs. The State of Maharashtra & ors.* (Writ Petition No.3087 of 2013 and companion writ petitions), decided on 04-02-2016, wherein the very learned counsel seems to have appeared and submitted thus :

“ 8. ***In all these matters the Zilla Gaurav Samiti has recommended the claim of the petitioners for grant of freedom fighter pension. In two matters even higher power committee has recommended the claims. It appears that, initially the claims were rejected by the State and these petitioners have approached before this court. This court directed the government to reconsider the recommendations and if, it wanted to ignore the same it should indicate why these two recommendations were incorrect. The recommendations were in the shape of affidavits of two freedom fighters who have undergone imprisonment of two years or more. The impugned order nowhere states that the affidavits***

of these two freedom fighters were not in accordance with the requirements. The government has also not raised any doubt about these two persons i.e. Mr. Mungal and Mr. Panchal have suffered imprisonment of two years or more in the said freedom struggle. **Even, the government does not dispute the contents of the affidavit. If, it does not dispute the contents of their affidavit it has to be accepted.** The impugned order only says that, those affidavits and its contents do not amount to a certificate. The said observation is improper. We could have accepted the said reason had the government discarded the said affidavit or would have expressed doubts about the contents of the affidavit, however, that is not the case. **Even, certificate is issued by the police patil to the effect that the petitioners were required to reside away from their houses.** All the ingredients as laid down in the Government Resolution are satisfied. Even, after remitting the matter the State has committed the same mistake. We cannot drag these age old persons to litigate in perpetuity. This is not an adversarial litigation. **Considering the voluminous documents produced on record, there is no doubt about the participation of these petitioners in the freedom struggle. Their claim is supported by the**

recommendations of Zilla Gaurav Samiti and in two matters even of higher power committee. ”

Learned counsel entreats this Court to follow similar course having regard to aforesaid observations in paragraph No.8 of the judgment.

15. During the course of submissions, learned counsel Mr. Panpatte purports to rely upon the decision in the case of *Tulshiram s/o Eknathrao Kolhe Vs. The State of Maharashtra (Writ Petition No.6730 of 2014)*, decided on 20-03-2018 and submits that, after consideration of the observations of the Supreme Court in the case of *State of Maharashtra & ors. Vs. Namdeo etc. etc., Civil Appeal No.7891-7899 of 2013*, a division bench of this court has rendered a decision that the petitioner will have to substantiate any one of the conditions under the Government Resolution dated 04-07-1995. He purports to refer to paragraph No.14 thereunder reading, thus :

“ 14. Thus, as per the Government Resolution dated 4.7.1995, the petitioner will have to prove one of the conditions that either he was compelled to leave his house or that he was required to leave his education or that he was assaulted by the police in such a manner, which resulted in his disability. Further, as per the said Resolution, he is required to

submit certificates of two freedom fighters who were sentenced to suffer imprisonment of two years or who were underground for a period of two years. On perusal of the impugned order as per clause (2) of the said order it has been held that the petitioner has proved the requirement of submitting certificates of two freedom fighters who were sentenced to suffer imprisonment for two years. Even on perusal of the affidavits of Motilal Laxmichand Sharma and Nivrutti Dadarao Raut, both have stated regarding their involvement in Hyderabad Mukti Sangram in 1947-48 and about imprisonment to them for more than two years. So also the certificates issued by these two freedom fighters respectively at page 51 and 54 show that the petitioner was underground freedom fighter and had participated in various activities, such as, cutting sindhi trees, hoisting national flag, raising slogans etc. Thus, the requirement of Government Resolution dated 4.7.1995 of submitting two certificates of freedom fighters who were sentenced to suffer imprisonment for two years in support of claim of the petitioner is proved and the authority concerned of respondent/ State has rightly held so while passing the impugned order.

15. *The petitioner has produced certificate at Exh.X-I (Page No.96) of Police Patil of village Bhanang Jalgaon. Said Certificate shows that the*

petitioner Tulshiram Eknath Kolhe was doing work of giving confidential information to Vithalrao Savargaonkar, who was head of the camp and freedom fighter. The Nizam Government was knowing about the work of the petitioner. When the Nizam police had come to arrest the petitioner, the petitioner was not found. There was camp of underground freedom fighters at Sadegaon and Vithalrao Savargaonkar was the chief of the said camp. The petitioner – Tulshiram was not found to the police. Further, it is stated in the certificate that along with freedom fighter Khanderao Ganpatrao Khalse, many workers had stayed for more than six months period in the wada of Khanderao Khalse. From this certificate of Police Patil, it can be said that the petitioner was compelled to leave his house and to stay at the place other than his native place. As such, he has proved one of the three requirements mentioned earlier in Government Resolution dated 4.7.1995. ”

16. Learned counsel for the petitioner submits that, the conditions in the present matter are similar. Learned counsel for the petitioner, therefore, submits that, case is based on strong foundation. There is more than sufficient material fulfilling the requirements under the concerned Government Resolution. The

same ought not have been rejected at all. He submits, writ petition deserves to be allowed setting aside interim order and allowing the application of the petitioner to freedom fighters pension. He, therefore, urges to allow the Writ Petition.

17. Learned A.G.P. submits that five conditions which are required to be fulfilled for grant of freedom fighters pension to an underground freedom fighter, as referred to in the Government Resolution dated 04-07-1995 would hardly be said to have been met with, with the kind and quality of material being relied on, on behalf of the petitioner. He purports to say that, earlier recommendation of the *Zilla Gaurav Samiti* had not been accepted by the state level committee and petitioner's husband had been accordingly communicated. He also refers to the affidavit-in-reply, particularly the deficiencies in certificate by the Head Master, intimating that the relevant record of the school had not been available. It is being contended that, the documents submitted along with application are not originals, but those are photo copies. He submits that, the Hon'ble Chief Minister's file contained record of high power committee. He submits that, while there is no credible material placed on record with regard to hardship being suffered by the petitioner's husband due to participation in the freedom struggle and the affidavits of four persons referred to above, Mr. Govindrao More,

Nagorao Mungal, Vitthal Bhosale and Ganpatrao Yetalkar being unreliable, as observed by Palkar committee report as well as requirement under clauses 4 and 5 not been fulfilled, the rejection is hardly liable to be flawed, despite supported with recommendations of High Power Committee. He purports to refer to a decision of the Supreme Court in the case of *State of Maharashtra & ors. Vs. Namdeo etc. (supra)*, particularly referring to paragraph No.21. He submits that, observations of the Supreme Court in paragraph No.21 thereof are as under :

“ 21. In the present case, as already noted above, except the affidavits of the two freedom fighters, no other material is placed to substantiate the claims. Approach of the High Court accepting the version of the respondents merely on affidavits, ignoring the requirements of the Scheme altogether, is fraught with dangers and would be prove to misuse and abuse. We can appreciate that direct evidence of having participated in the freedom movement, which events occurred almost 70 years ago, may not be available and therefore it should not be deemed that this Court is insisting on such direct evidence in order to enable an applicant to succeed in his claim. At the same time, the Government Resolution dated 4.7.1995 enlists the documents, on the production of whereof, the respondents could substantiate their

participation and involvement in the freedom movement. In a given case, if there is some cogent material on the basis of which satisfaction can be arrived at about the participation in the agitation, the Government may relax the other requirements. However, it would be for the State Government to exercise such a discretion, in a given case, if it is otherwise fully satisfied that the material produced demonstrate that the applicant is a freedom fighter. ”

18. Learned A.G.P. submits that, similar is the situation in the present matter. He purports to submit that, even Mukund Lal Bhandari's case refers to that the pension can be sanctioned only after requisite documents are produced. Since the material fell short of credibility, the impugned order is not liable to be intercepted and the petition, therefore, be rejected.

19. It is not disputed that, along with the application, petitioner had filed affidavits of recognised freedom fighters Punjabrao Masarao Wadkute, Narayan Ganpatrao Sawant, Govindrao Narsingrao More, Nagorao Bhujanga Mungal, Vithal Nagoba Bhosale, Gangaprasad Yetalkar, Punjarao, Narayan Ganpat, Ganpatrao @ Ganya Yadavrao Tagadpalle. She had also annexed the recommendations by *Zilla Gaurao Samiti* of all members constituting the committee including that of the

Collector. A police patil's certificate and efforts made by her to have record of school also appear to accompany.

20. Albeit, it appears that, before the matter had been placed with the High Power Committee, section officer had purportedly put up certain deficiencies. He purported to consider that the affidavits are discrepant of certain requirements. Affidavits by Shri Govindrao More, Shri Nagorao Mungal, Shri Vitthal Bhosale and Shri Gangaprasad Yetalkar being mono-typed documents, in view of the observations by the Palkar Committee, those were considered not amenable for consideration. These affidavits have been accompanied by imprisonment certificate save that of Shri Yetalkar. It is not the case of respondents that they had not suffered imprisonment of two years. Rest of the affidavits were also found unacceptable by him for want of sufficient accompaniments. He had considered that no government record is made available about husband of petitioner having served as an underground freedom fighter and the application would not meet with the conditions. It also refers that, the *Zilla Gaurao Samiti* recommended her case and had accordingly put up proposal for consideration by the Higher Power Committee.

21. The persons who have given affidavits in support of

the claim of petitioner about her husband having participated in freedom struggle were hailed by the State as freedom fighters and copies of certificates issued by the State were placed on record.

Despite this, the observations appearing in impugned order about material produced is deficient of their independent participation in the freedom struggle appears to be rather outstretched consideration. Having regard to aforesaid, pedantic approach evinced would be incompatible with underlying philosophy, object and purpose of the scheme. It would be worthwhile to refer to observations of supreme court in the case of *Gurdialsingh Vs. Union of India and others* (supra) as under :-

“ 7. The standard of proof required in such cases is not such standard which is required in a criminal case or in a case adjudicated upon rival contentions or evidence of the parties. **As the object of the Scheme is to honour and to mitigate the sufferings of those who had given their all for the country, a liberal and not a technical approach is required to be followed while determining the merits of the case of a person seeking pension under the Scheme.** It should not be forgotten that the persons intended to be covered by the Scheme had suffered for the country about half-a-century

*back and had not expected to be rewarded for the imprisonment suffered by them. Once the country has decided to honour such freedom fighters, the bureaucrats entrusted with the job of examining the cases of such freedom fighters are expected to keep in mind the purpose and object of the Scheme. **The case of the claimants under this Scheme is required to be determined on the basis of the probabilities and not on the touchstone of the test of “beyond reasonable doubt”. Once on the basis of the evidence it is probabalised that the claimant had suffered imprisonment for the cause of the country and during the freedom struggle, a presumption is required to be drawn in his favour unless the same is rebutted by cogent, reasonable and reliable evidence.*** ”

22. The high power committee, had given positive remarks and accepted the case of the petitioner for grant of freedom fighters pension under the Scheme. The Member Secretary, Chairman and the Hon'ble State Minister had recommended the case of the petitioner (Pages 118-119). High power committee had, it appears that, recommended petitioner's case for grant of freedom fighters pension.

23. However, a note had been put up to the Hon'ble Chief

Minister by the Joint Secretary, with reference to the notings by the Section Officer and had proposed negation of the claim of the petitioner and it appears that, the Hon'ble Chief Minister has approved the note put up by the Joint Secretary.

24. It would be worthwhile to consider the observations of Supreme Court in the case of Mukund Lal Bhandari (supra), wherein it has been observed as under :

“ Where the freedom fighters are not alive and their widows and unmarried daughters have to prefer claim, the petition may still be worse with regard to their knowledge of prescribed date. What is more if the scheme has been introduced with genuine desire to assist and honour those who had given the best part of their life for the country, it ill behaves the government to raise pleas of limitation against such claims. In fact, the government, if it is possible for them to do so should find out the freedom fighters or their dependents and approach them with the pension instead of requiring them to make applications for the same. The plea of the government that claimants would only be entitled to the benefit of scheme if they made applications before a particular date notwithstanding that in fact they had suffered the imprisonment and made the sacrifices and were thus otherwise qualified to

receive the benefit. The date prescribed in any past or future notice inviting the claims should be regarded more as a matter of administrative convenience than as a rigid time limit. The spirit of the scheme being both to assist and honour the needy and acknowledge the valuable sacrifices made, it would be contrary to its spirit to convert it into some kind of a programme of compensation. The pension under the scheme should be made payable only without any restriction of date or application for the same and the application cannot be rejected on the plea that it was beyond the prescribed date. ”

25. The situation has been further developed in the decision of the Supreme Court in the case of *State of Maharashtra & ors. Vs. Namdeo etc. etc. (Civil Appeal No.7899-7901 of 2013* has expressed approach to be had in the matter of applications to freedom fighter's pension.

26. Having regard to the basic intendment underlying the scheme, it appears that, the approach in present matter had been digressing from the same. Consideration generally tends to be apathetic or pedantic. In the present matter, more than necessary number of persons who have been undisputedly hailed by the State as freedom fighters have vouched about

participation of the petitioner's husband in freedom struggle. It is considered that those are not exactly complying with the requirements under the resolution. Four affidavits of Mr. More, Mungale, Bhosale and Ganpatrao @ Ganya Yadavrao Tagadpalle have been purportedly discarded for being typed copies and blank spaces only were filled up in which their names and signatures were obtained, taking into account the case is from Beed district. Yet, it appears, those were accompanied by jail certificates except that of Yetalkar. Although it is said that the certificate of Mr. Bhosale is not clear on whether he suffered imprisonment of two years, it is not the case that the other persons had suffered such an imprisonment is disputed. There were other affidavits produced. One had been accompanied by material supporting the affidavit referring to that, husband of the petitioner indeed had participated in freedom struggle. Apart from aforesaid, it appears it is not disputed that the *Zilla Gaurao Samiti* has unanimously recommended the case of petitioner's husband for grant of freedom fighters pension. It is not the case that the recommendation had been without examination of the case of petitioner's husband. In addition to aforesaid, it appears that, at least four members of the high power committee had recommended the case of petitioner for grant of freedom fighter's pension and the same had not at all fallen for consideration of the Hon'ble Chief Minister. His attention does not appear to have

been drawn to the same. In the circumstances, while the petitioner's case had been recommended by the *Zilla Gaurao Samiti* as well as by the high power committee, on the note put up by the Joint Secretary based on the notings of the section officer, to the Hon'ble Chief Minister, disregarding the recommendations of the other members of the high power committee without dealing with the same, impugned decision so rendered, appears to be without application of mind to the material and is an outcome of pedantic, fault finding approach by the officers putting up notes.

27. Apart from aforesaid, paragraph no. 8 referred to and reproduced hereinabove from the case of Rajabai (supra), the present case deserves a positive consideration rather than being on a lookout of finding negatives in the same.

28. The scenario depicts that while petitioner appears to have placed reasonably sufficient record in support of her case the same being reinforced under recommendations of the *Zilla Gaurav Samiti* as well as recommendations of high power committee, it does not appear that perfunctory and pedantic approach as would emerge under impugned order would be miscible with the purpose and object underlying the freedom fighters pension scheme. Petitioner appears to be about 86 years old, as of now, having regard to aforesaid situation, guided by

decisions of this court in the cases of *Punjaram Madhav Indewad vs. The State of Maharashtra & ors* (Writ Petition No.2632 of 2011), *Rajabai w/o Pandoji Kshirsagar vs. The State of Maharashtra and others* [writ petition No. 3087 of 2013] and *Tulshiram s/o Eknath Kolhe vs. The State of Maharashtra* (writ petition no. 6730 of 2014] we deem it t appropriate to allow writ petition.

29. Accordingly, we set aside the impugned order and grant the writ petition in terms of prayer clause (D).

30. Rule made accordingly absolute.

(R.G. AVACHAT)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

fmp/