

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 WRIT PETITION NO.662 OF 2017

PRAMOD KACHARU BHALERAU AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. H.D. Deshmukh, Advocate for the petitioners
Mr. S.S.Dande, AGP for the respondent/State

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

DATE : 23-09-2019

P.C. :-

. Heard learned counsel for the petitioners.

2. While under writ petition the petitioner purports to impugn government resolutions dated 31-10-2015 and 07-07-2007 and consequent communication dated 29-02-2016, it appears that in view of the full bench judgment dated 30-04-2019 in writ petition No. 8387 of 2013 and connected writ petitions whereunder three questions were referred to for decision thereon and have been answered which are as under:

Question No.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 ?

Answer- *In the context of the right of an employee of private school or college of education to receive pensionary benefits and the corresponding liability of the Government to pay the same, only those schools and colleges of education which are receiving 100% grant-in-aid can be termed as aided institutions.*

Question No.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 were receiving less than 100% grant-in-aid as on 1st November, 2005 are entitled to the benefice 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?*

Answer- *The employees who were appointed prior to 01-11-2005 in aided recognized primary, secondary schools as well as colleges of education which were receiving less than 100% grant-in-aid as on 01-11-2005 would be governed by the DCP scheme.*

Question No.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 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 ?

Answer- *Similar will be the situation of the employees who were appointed prior to 01-11-2005 in aided primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 01-11-2005 but which became 100% aided before 29-11-2010 would also be governed by the DCP scheme.*

2. In view of the full bench decision it is difficult to accept the request made in the writ petition as it does not appear that the petition survives for decision. The writ petition therefore, is rejected.

[S.M. GAVHANE, J.]

[SUNIL P. DESHMUKH, J.]