

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

WRIT PETITION NO. 12665 OF 2018

Smt. Farhat Naheed Shaikh Abdul Khalique ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. B.V. Thombre, Advocate for Petitioner

Mrs. P.V. Diggikar, Assistant Government Pleader for
Respondent No. 1

Mr. S.B. Ghute, Advocate for Respondent Nos. 2 and 3

**CORAM : S.V. GANGAPURWALA AND
A.M. DHAVAL, JJ.**

DATE: 15th JANUARY, 2019

PER COURT

1. The husband of the petitioner was working as an Assistant Teacher. He retired from service and thereafter, died on 9th October, 2016. Subsequently, order of recovery is passed against him on 22nd November, 2016. It is sought to be recovered from the family pension. The same is assailed in the present writ petition.

2. We have heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

3. The facts as narrated above are not disputed. The husband of the petitioner was working on Class-III post. The recovery claimed is for the period 2006 onwards. The said recovery is also claimed after the death of the husband of the petitioner. The parameters as laid down in the Judgment of the Apex Court in case of ***State of Punjab Vs. Rafiq Masih (White Washer & Ors.) reported in (2015) 4 SCC 334*** would apply.

4. In light of the above, the impugned order to the extent of claiming recovery is quashed and set aside.

5. The Writ Petition is accordingly allowed to that extent. No costs.

(**A.M. DHAVALÉ, J.)** (**S.V. GANGAPURWALA, J.)**

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