

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITIONS NO. 439/2014, 961/2015, 453/2016,
461/2016, AND 569/2016

WRIT PETITION NO. 439 OF 2014

1) Laxman J. Chavan,
aged 69 years, India National,
resident of House No.4/10,
Venkatesh Nagar, Opposite
Civil Court, Sanguem, Goa.

2) Caitan J. Carvalho (deceased)
represented by :
2(a) Maria Epifania Inasia De
Albuquerque, wife of the deceased,
aged 65 years ;
2(b) Vicente V. Carvalho,
son of deceased, aged 42 years;
2(c) Mancy G. Navarro, wife of
Vincente, aged 40 years,
2(d) Edwin E. Carvalho,
son of deceased; aged 39 years;
2(e) Antoneta D'Costa, wife of
Edwin, aged 33 years;
All residents of House No.71/1,
Bamon Sai, Sanguem-Goa.

3) Joaquim Vaz,
aged 67 years, India National,
resident of House No.1/B, Benwado,
Sanguem, Goa.
4) Rosario Mascarenhas,
aged 68 years, Indian Nationals,

resident of House No.103,
Tarimol, Sanguem-Goa.

5) Joao P.R. Fernandes,
aged 71 years, Indian National,
resident of Flat No.16,
Bamonsai, Sanguem-Goa.

6) Shaikh Abdul Munaf,
aged 71 years, Indian National,
resident of Flat No.2, Second Floor,
Saida Mangil, Near Namdeo Tiles,
Karimoddi, Curchorem, Goa.

7) Chandrakant B. Naik,
aged 70 years, Indian National,
resident of House No.24, Sadabag,
Sanguem-Goa.

8) Keshav S. Naik (deceased)
8 (a) Smt. Savitri Keshav Naik,
wife of the deceased, aged 58 years;
8(b) Vijay Keshav Naik, son,
aged 37 years;
8(c) Varshada Vijay Naik,
Daughter-in-law,
aged 33 years;
8(d) Ajay Keshav Naik, son
aged 36 years;
8(e) Vinay Keshav Naik, son,
aged 34 years;
8(f) Smt. Vedika Vinay Naik,
daughter-in-law, aged 22 years;
8(f) Vidhyanand Keshav Naik, son
aged 30 years;

All residents of House No.45,
Pajimol, Sanguem, Goa.

9) P.S. Madkaikar,
aged 70 years, Indian National,
resident of House no.34,
Bamonsai, Sanguem, Goa.

10) Dasharath L. Tari,
aged 70 years, Indian National,
resident of House No.112,
Taripanto Sanguem, Goa.

11) Benedito Carvalho,
aged 70 years, Indian National,
resident of House No.59,
Bamonsai, Sanguem.

12) Antonio S. Fernandes,
aged 70 years, Indian National,
resident of House No.126,
Dando Sanguem.

13) Luis D'Costa,
aged 71 years, Indian National,
resident of House No.63,
Tinto, Sanguem, Goa.

14) Antonio Carvalho,
aged 70 years, Indian National,
resident of House No.29,
Bamonsai, Sanguem.

15) Domingos Fernandes,
aged 70 years, Indian National,
resident of House No.16,
Bamonsai, Sanguem, Goa.

16) Anant Putu Shet Dangui,
aged 69 years, Indian National,
resident of House No.12, Ponsamol,
Uguem, Sanguem, Goa.

17) Smt. Maria Satira Rodrigues,
widow of Carlos A. Fernandes,
resident of H.No.26, Bamonsai,
Sanguem, Goa.

..... Petitioners.

V/s.

1) The Chief Secretary,
State of Goa, having office at
Secretariat, Porvorim Goa.

2) Director General of Police,
having office at Police
Head Quarters, Panjim Goa

3) The Chief Engineer,
Public Works Department,
Government of Goa,
having office at Altinho,
Panaji Goa.

4) The Collector of South Goa District,
Government of Goa,
having office at Saldanha
Administrative Complex,
Margao Goa.

5) The Director of Agriculture,
Government of Goa, having

office at Tonca, Miramar,
Panaji Goa.

6) The Director of Child Development,
Government of Goa,
having office at Panaji Goa.

7) The Captain of Ports,
Government of Goa,
having office at Captain of Ports
Building, Panaji Goa.

8) The Director of Irrigation,
Government of Goa,
having office at Panaji Goa.

... Respondents

Mr. Parikshit Sawant, Advocate for the Petitioners.

Mr. Sagar Dhargalkar, Additional Govt. Advocate for the
Respondents

WITH
WRIT PETITION NO.961 OF 2015

Shri M. L. Patil,
Major in age, married,
retired as Principal Govt.
Multi-Purpose Higher Secondary School
Borda Margao,
presently residing at
Plot No.13, New Shivaji Colony Tilakwadi,
Belagavi.

.... Petitioner

V/s

1) The State of Goa

Through its Chief Secretary,
Secretariat, Alto Porvorim Goa.

2) The Director
Department of Education
Govt. of Goa
Porvorim Goa.

... Respondents

Ms. Asha Dessai, Advocate for the Petitioner.

Mr. Deep Shirodkar, Additional Govt. Advocate for the Respondents

WITH
WRIT PETITION NO.453 OF 2016

1. MR. NEVES ANTHONY REBELLO, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO.1/A/314, “NEVIN VILLA”, DEUSSUA, P.O. CHINCHINIM SALCETE GOA-403715.
2. MR. OLENCIO JORDAO ALMEIDA, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO. 660, DANDEAVADDO, P.O. CHINCHINIM SALCETE GOA-403715.
3. MR. ANTONIO ADELPO VITAL AFONSO, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, NAVELIM, SALCETE-

GOA.

4. MRS. MARIA H. AFONSO,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO 410, TONCA
MARCEL PONDA GOA
5. MR. GANPATI GOVIND
BIRAMBOLE, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, F/F5,
AMBICA MANOR,
BEHIND NEHRU
STADIUM,
FATORDA MARGAO
SALCETE GOA-403602.
6. MR. JOTIBA VITHOBA
BHATKANDE, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, F/3,
NARAYAN APARTMENTS,
GAWALIWADA,
FATORDA MARGAO GOA-
403602
7. MR. MAHADEV
NARAYAN BHOSALE,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.432/1, KHAREBUS,
SHELDEN, QUEPEM GOA.
8. MRS. SULBHA Y.
BAADKHAR ALIAS
RAJLAXMI. R.
BHANDARI, MAJOR OF
AGE, INDIAN NATIONAL,

RESIDENT OF,
H.NO.100,DELEM
CANACONA GOA.

9. MR. SHRIPAD V. BHARVE,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
ANANDWADI
SANVORDEM,
CURCHOREM, GOA.
10. MR. SHIVAJI RUDRAPPA
BHOSALE, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, H.NO.38,
VELING TALIWADA
11. MR. PANDURANG
KASHINATH BAKHALE,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.51, BHETKIWADA
BORIM,
PONDA GOA-403401
12. MR. VITHOBA BABU
BHAGAT, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 158,
BHAGATWADA
NAGARCEM, CANACONA
GOA-403702
13. MRS. SUDHA B. BHISE,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
DEULWADA, MARCEL
GOA-403107.

14. MRS. LATA FATU
BHENDE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 294,
PAUSULE PILIYE,
TISK PONDA GOA.
15. MR. KASHINATH
JAGANATH
BANDODKAR, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF,
H.NO. 1352/D, DAMON
WEST,
P.O.RAIA SALCETE GOA.
16. MRS. GLADYS
COUTINHO, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, "FELIX
DALE", H.NO. 1091,
MILLEAMVADDO
CUNCOLIM SALCETE
GOA-403703
17. MISS. SUDHA
CHODANKAR, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF,
BHIMARATI
NIWAS,NAGOA, PIRIM,
SALCETE GOA-403722.
18. MRS. WILMA COSTA E
SILVA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 218,
SENAULIM WARD P.O.
VERNA SALCETE GOA-
403722.

19. MRS. ZARINA COUTINHO,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. 174/A, SIQUETIM
NAVELIM SALCETE GOA.
20. MR. KRISHNA
HAMBIRRAO DESSAI,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
INDUSHREE HILLS, G-1
GROUND FLOOR, NEAR
BANDEKAR DENTAL
CLINIC, PERIGHOL,
KAVALEM PONDA GOA-
403401.
21. MRS. PUSHPA
PURUSHOTTAM DESSAI,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
F-1, VIRGINKAR
ENCLAVE, NEAR MARUTI
MANDIR, DAVORLIM,
NAVELIM SALCETE GOA.
22. MRS. MILAN ANANT
DESSAI, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 1616,
SANVORCOTTO,
CUNCOLIM, SALCETE
GOA-403703.
23. MR. SUHAS SHANTARAM
DESSAI, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, GREEN

VIEW APARTMENT, 1SR
FLR, D-1, BANSAL,
CURCHOREM GOA.

24. MRS. NATIVIDADE
D'SOUZA, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, 'BOUNAT'
BUTICA-II, P.O. NAVELIM,
SALCETE GOA-403707.
25. MRS. NATALINA B. DIAS
E SEIXAS, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, S.7,
SANSKAR CO-
OPERATIVE HOUSING
SOCIETY,
AQUEM ALTO MARGAO
SALCETE GOA-403601.
26. MISS HEMLATA DHUME,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
FLAT NO.09, RUKMINI
ARCADE, H.NO. 1002-5
CHIMULEVADA MARCEL,
PONDA GOA.
27. MRS. MOHINI K NAIK
ALIAS CHANDRALEKHA
C.P. DESSAI, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, FLAT NO.
UG-8, AGALLI FATORDA
MARGAO SALCETE GOA.
28. MR. RAJARAM NANU
DESSAI, MAJOR OF AGE,

INDIAN NATIONAL,
MAULI NIWAS, H.NO.
82/2, PAIGHOL,
PONDA GOA-403401

29. MRS. JUDITH
FERNANDES, MAJOR OF
AGE, INDIAN NATIONAL,
F/6, SEA BREEZE,
VANELIM COLVA
SALCETE GOA-403708
30. MRS. OLYMPIA
FERNANDES, MAJOR OF
AGE, INDIAN NATIONAL,
ZUZEGALL P.O.
CUNCOLIM SALCETE
GOA-403703.
31. MR. ROQUE ROBERT
FERNANDES, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO. 254, SERAULIM
VERNA, SALCETE GOA.
32. MRS LALITA KAMAT,
MAJOR OF AGE, INDIAN
NATIONAL,
G.1, GRACELAND
APARTMENT,
DONGORWADO,
P.O. FATORDA MARGAO
SALCETE GOA-403602.
33. MR. ALEXIO GODINHO,
MAJOR OF AGE, INDIAN
NATIONAL,
VILLA AJOY, 720 B,
ADARSH NAGAR,

AIRPORT ROAD
CHICALIM GOA-403711.

34. MR. BABUSO RAM NAIK
GAONKAR
RAJLAXMI, MAJOR OF
AGE, INDIAN
NATIONAL, H.NO.603/A,
BARI RELIWADA
NAGARCEM CANACONA
GOA-403702.
35. MR. CROSSBY J. GEORGE,
MAJOR OF AGE, INDIAN
NATIONAL,
A/F-4, HILLSIDE
APARTMENTS, ST.
JOAQUIM ROAD, BORDA
P.O. FATORDA, MARGAO
SALCETE GOA-403602.
36. MR. GOPAL A GURAV,
MAJOR OF AGE, INDIAN
NATIONAL,
GANESH NAGAR,
KHANDOLA,
MARCEL PONDA GOA-
403107.
37. MR. RAYMOND GOMES,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO.61, NEAR HDFC
BANK,
AQUEM ALTO MARGAO
SALCETE GOA.
38. MR. UMESH DHAKALO
VARIK GAUNKAR,

MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 11/R, SHENKAIRE,
SHIRVOI KEPEM GOA.

39. MR. PRAMILA M. SAIL
ALIAS PRAMILA P.N
GAONKAR, MAJOR OF
AGE, INDIAN NATIONAL,
DELEM CANACONA GOA.
40. MR. VISHRAM K.
GAONKAR, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO.12, ORGAONWADA ,
MARCEL GOA-403107.
41. MR. RAMESH SHAMBA
GAONKAR, MAJOR OF
AGE, INDIAN NATIONAL,
'SAFALYA', MAHALAXMI
NAGAR,
TALAULIM, P.O.DUBHAT
PONDA GOA.
42. MR. KARIAPPA
BHIMAPPA HARIJAN,
MAJOR OF AGE, INDIAN
NATIONAL,
A/I/III FLR, ANAND
RESIDENCY
AIRPORT ROAD,
CHICALIM VASCO GOA.
43. MRS. ANJANI
GANASHAM HORNEKAR,
MAJOR OF AGE, INDIAN
NATIONAL,
F-25, FATORPA

CUNCOLIM, SALCETE
GOA.

44. MR. ANAND DADU
JADHAV, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO64/C, NIRABAG,
CAMURLIM,
P.O. LOUTOLIM SALCETE
GOA.
45. MR. ISHWAR
MADHAVRAO JADHAV,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 616/10, TULZA
BHAVANI, SHIVNAGAR
XELDEM KEPEM GOA.
46. DR. NARAHARI
MADHAVRAO JAMBAGI,
MAJOR OF AGE, INDIAN
NATIONAL,
FLAT NO. FF3,4TH FLR, DR.
TARQUINO HENRIQUES
CO-OP. HOUSING
SOCIETY , FR. JOSEPH
VAZ ROAD,
VASCO DA GAMA, GOA-
403802.
47. MRS. INDUMATI GOVIND
KAMAT, MAJOR OF AGE,
INDIAN NATIONAL,
FLAT NO. 2, GEETANJALI
APARTMENTS,
NEAR RAILWAY OVER
BRIDGE, MORAILEM,
CURCHOREM GOA-

403706.

48. MR. NAGESH VITAL NAIK
KARMALI, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO. 355, NISPABHAT,
SAO JOSE DE AREAL
CURTORIM SALCETE
GOA.
49. MR. AVADHUT
SADANAND KAKODKAR,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO.153, KAMALA
SADAN
KAKODA, CUURCHOREM
GOA.
50. MRS. RAJANI S. KERKAR
'SIDDHI', MAJOR OF AGE,
INDIAN NATIONAL,
NEAR RANI
CONSTRUCTION,
KHADPABAND,
PONDA GOA-403401.
51. MRS. ANANDA G.
MAHALE, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO. 234, KAJUMOL,
KHOL CANACONA GOA-
403702.
52. MR. AGNELO JOSE
SANTANA DIAS
MASCARENHAS, MAJOR
OF AGE, INDIAN
NATIONAL,

A-6, NIRMALA CO-OP
HOUSING SOCIETY,
BEHIND MUNICIPALITY,
MARGAO SALCETE GOA-
403601.

53. MRS. CAROLINE LIRA,
MAJOR OF AGE, INDIAN
NATIONAL,
VILLANOVA
APARTMENTS,U.G.4,
CHANDRAWADO,
FATORDA MARGAO
SALCETE GOA-403602.
54. MRS. CELIA MONTEIRO,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 375,
MONTERIOMANSION,
BEHIND DURGA PETROL
PUMP, FATORDA
MARGAO SALCETE GOA-
403602.
55. MR. KRISHNA RAMA
MANDOLKAR, MAJOR OF
AGE, INDIAN NATIONAL,
KANTA APARTMENTS ,S-
1,SECOND FLOOR NEAR
SHIVAJI CHOWK ,
CURCHOREM GOA.
56. MRS. MARGARET
MENDES, MAJOR OF AGE,
INDIAN NATIONAL,
PLOT NO.A 101 ,GOA
HOUSING BOARD
COLONY

NEAR BHATIKAR MODEL
HIGH SCHOOL
MARGAO SALCETE GOA.

57. MR. SURESH NARAYAN
METRI, MAJOR OF AGE,
INDIAN NATIONAL,
KENTARKAR TOWNSHIP
BUILDING, 'D' F.4,
AMBAJI FATORDA
SALCETE GOA-403602.
58. MR. MAHADEV
PUNDALIK NAIK, MAJOR
OF AGE, INDIAN
NATIONAL,
LAS PALMAS
APARTMENTS, FLAT NO.
A-5,
OPPOSITE TRIMURTHI
HOSPITAL GOGAL
MARGAO SALCETE GOA-
403602.
59. MRS. MITRA MOHAN
NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO. 373, GANESH
KRUPA,
MAHALAXMI NAGAR,
TALAULIM PONDA GOA-
403401.
60. MR. NAROTTAM R. NAIK,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 979, BHARNEWADA
ADAN MADKAI,
P.O.MADKAI GOA-403404.

61. MR. NILKANTH BAPU
NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
HNO.160/3, SINQUETIM
NAVELIM,
SALCETE GOA-403707.
62. MR. SHANTARAM R.
NARVEKAR, MAJOR OF
AGE, INDIAN NATIONAL,
SHANTADURGA CO-OP
HOUSING SOCIETY
DEWALVADA, MARCEL
PONDA-403107.
63. MR. RAMCHANDRA J.
NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
CHITARBHAT VAGDON,
NAGESHIM PONDA GOA.
64. MR. DEU RAMCHANDRA
PAL, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO. M/113 BORDEM
BICHOLIM GOA.
65. MR. PARSHURAM C.
PARAB, MAJOR OF AGE,
INDIAN NATIONAL,
LAVEENA PARTMENTS,
1ST FLR,
BLOCK-3, DEVLAY
KHANDOLA MARCEL
GOA.
66. MR. RATNAKAR
SHIVRAM PARIT, MAJOR

OF AGE, INDIAN
NATIONAL,
H.NO. 77, MASTIMOL
CANACONA GOA-403702.

67. MR. RAMESH S. POLJI,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 428/4,
AMARIWADA, VOLVOI
P.O.SAVOI VERM PONDA
GOA.
68. MR. CHANDRAKANT
CHALLU PATIL, MAJOR
OF AGE, INDIAN
NATIONAL,
H.NO. 740(I), TEACHER'S
COLONY
ST.JOSE DE AREAL
BEHIND ATLANTIC MILL,
NESSAI SALCETE GOA.
69. MR. GAJANAM LAXMAN
PATIL, MAJOR OF AGE,
INDIAN NATIONAL,
S-3, SECOND FLOOR,
SHAKTI RESIDENCY,
DHAVALI PONDA GOA.
70. MRS. NANDUMATI
J.PATIL, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO. 704 G, TEACHER'S
COLONY
JYOTEENDU, NESSAI P.O.
CURTORIM SALCETE
GOA.

71. MR. NARAYAN
DHONDIBA PATIL, MAJOR
OF AGE, INDIAN
NATIONAL,
VODLEMOL, KAKODA
CURCHOREM QUEPEM
GOA.
72. MR. NARASAPPA
HANUMANT PATIL,
MAJOR OF AGE, INDIAN
NATIONAL,
GARDEN HATTI, P.O.
KASABA NANDADAD
KHANAPUR, BELGAUM.
73. MR. VITHAL JIVAPPA
PATIL, MAJOR OF AGE,
INDIAN NATIONAL,
NANDANVAN
RESIDENCY, PATANTALI
KAVLEM,
BANDORA PONDA GOA-
403401.
74. MR. VITHAL NARAYAN
PATIL, MAJOR OF AGE,
INDIAN NATIONAL,
VISHVAMBHARWADI
SANVORDEM
P.O. CURCHOREM GOA-
403706.
75. MRS.SANDYA S.
PRABHUGAONKAR,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO. 309(1),
BAZARWADA MARCELA

PONDA GOA.

76. MRS. GODAVARI G.
RANE, MAJOR OF AGE,
INDIAN NATIONAL,
MUNJ VIHAR, C-2, S-1,
SECOND FLOOR
GOGAL MARGAO
SALCETE GOA.
77. MRS. KUSUM MANOHAR
RANE, MAJOR OF AGE,
INDIAN NATIONAL,
VANGAD MAJALI,
KARWAR, KARNATAKA
STATE.
78. MR. SURESH SHIVRAO
RANE, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO. 836, BANSAI
CURCHOREM GOA-
403706.
79. MRS. SHOBA P. NAIK
ALIAS VIBHA GOPINATH
REGE, MAJOR OF AGE,
INDIAN NATIONAL,
'SANKALPA',
KALPATARU CO-OP
HOUSING SOCIETY,
AQUEM BAIXO, NAVELIM
SALCETE-403707.
80. MR. SADASHIV D.
REDKAR, MAJOR OF AGE,
INDIAN NATIONAL,
DEULWADA MARCEL
PONDA GOA-403107.

81. MR. TUKARAM JOTIBA REDEKAR, MAJOR OF AGE, INDIAN NATIONAL, 360/2, MAHALAXMINAGAR TALAULIM, DURBHAT PONDA GOA-403404.
82. MR. NAGESH BHIKU RAIKAR, MAJOR OF AGE, INDIAN NATIONAL, H.NO.7, SELLER CANACONA GOA-403702.
83. MR. BABU PUTU RAIKAR, MAJOR OF AGE, INDIAN NATIONAL, H.NO.139, SELLER CANACONA GOA-403702.
84. MR. SURESH JOGI RANE, MAJOR OF AGE, INDIAN NATIONAL, H.NO. 126/3, VADAMOL SHRISTHAL CANACONA GOA.
85. MR. SURENDRA VINAYAK RANE, MAJOR OF AGE, INDIAN NATIONAL, R.B.NO.3, 5504/7, GREEN VALLEY, NEAR PAULINE GRANITE FACTORY, GOGOL MARGAO SALCETE GOA-403601.

86. MRS. YMUNA DINKAR
REDKAR, MAJOR OF AGE,
INDIAN NATIONAL,
M-89, HOUSING BOARD,
GOGOL MARGAO
SALCETE GOA-403601.
87. MRS. DIVINA P. DE
FATIMA P. RODRIGUES,
MAJOR OF AGE, INDIAN
NATIONAL,
GOMES WARD
CAVELOSSIM SALCETE
GOA.
88. MR. HILDA RODRIGUES,
MAJOR OF AGE, INDIAN
NATIONAL, MARGAO,
SALCETE-GOA.
89. MRS. ROSY F.
RODRIGUES, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO. 1106, SOCOWADDO
PALMAR GRANDE
CHINCHINIM SALCETE
GOA-403715.
90. MR. NARAYAN T. TARI,
MAJOR OF AGE, INDIAN
NATIONAL,
H.NO.83, DEULWADA
VOLVOI SAVOI VEREM,
PONDA GOA.
91. MR. TUKARAM K.
TALEKAR, MAJOR OF
AGE, INDIAN NATIONAL,
H.NO 32/1, SHRIKURPA,

TALEWADA,
BETKI MARCEL PONDA
GOA-403107.

92. MR. JOAQUIM JOSE
SOUZA, MAJOR OF AGE,
INDIAN NATIONAL,
FLAT NO. 6, NILLU
APARTMENTS,
ST. JOAQUIM ROAD,
VIDYANAGAR BORDA,
P.O. FATORDA MARGAO
SALCETE GOA-403602.
93. MR. PANDURANG BAPU
SAWANT, MAJOR OF AGE,
INDIAN NATIONAL,
H.NO. 2754, PANTEMAOL
CURCHOREM GOA-
403706
94. MR. NILKANTH
PANDURANG SAWANT,
MAJOR OF AGE, INDIAN
NATIONAL,
FONDKULA
SANVORDEM,
P.O. CURCHOREM GOA.
95. MRS. ERNESTINA VAS,
MAJOR OF AGE, INDIAN
NATIONAL,
DAMODAR BUILDING,
NEXT TO POLICE
STATION
MARGAO SALCETE GOA.
96. MR. LOVOSH V. SHET
VERENKAR, MAJOR OF

AGE, INDIAN NATIONAL,
VISHWANGA, H.NO. 82/A
NEAR PANCHAYAT
OFFICE, P.O. VERNA,
SALCETE GOA-403722

97. MRS. VALSAMMA
THOMAS, MAJOR OF
AGE, INDIAN NATIONAL,
VALSA NIWAS, 753-B,
BEBQUEGAL,
CURCHORM GOA-403706.

98. MRS. JAYANTY KASTURI, MAJOR
OF AGE, INDIAN NATIONAL, C-106
CASSIA BRIGADE, MILLENIUM,
J.P. NAGAR, 7TH PHASE,
PUTTANAHALLI, BANGALORE
560 015

..... Petitioners.

V/s.

01. THE STATE OF GOA,
THROUGH ITS CHIEF SECRETARY,
SECRETARIAT, ALTO PORVORIM,
GOA.

02. THE DIRECTOR,
DIRECTORATE OF EDUCATION,
GOVERNMENT OF GOA,
PORVORIM, GOA.

.... Respondents.

Mr. Jitendra P. Supekar, Advocate for the Petitioners.

Mr. Sagar Dhargalkar, Additional Govt. Advocate for the
Respondents

WITH
WRIT PETITION NO.461 OF 2016

1. MR. LAWU YESHWANT
FATTE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 962,
B.B.BORKAR ROAD, ALTO
TORDA, NEAR HIGHLAND
CONSTRUCTIONS,
PORVORIM BARDEZ GOA.
2. MRS. FLORIDA R. ALMEIDA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
MADLAWADA HARMAL
PERNEM GOA.
3. MR. MANGESH SONU
AJGOANKER, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, ANANDI
NIVAS, H.NO. 212/9, FLAT NO
E-10, GANESHPURI MAPUSA
BARDEZ GOA – 403507.
4. MRS NELLA J. D'MELLO E
ANDRADE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO .346,
POVOACAO , MOIRA BARDEZ
GOA.
5. MRS KUNDA PADMAKAR
APTE, MAJOR OF AGE,

INDIAN NATIONAL,
RESIDENT OF, H.NO,
MALYARWADA AJGAON
SAWANTWADI
SINDHUDURGA.

6. MRS. PREMA DHONDU
AROLKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF,
BAHERILWADA KERI SATARI
P.O, SATARI GOA-403505.
7. MR. ANANT R BAGKAR,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
BHATLEM, PERNEM GOA.
8. MR. SURESH GANPATI
BANDEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF,
SALGAONKARWADA,
ADWAPAL, P.O. ASSONARA
BARDEZ GOA.
9. MR. BABUSO LAXMAN
BHAJE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 140,
'SHIVAM', HOUSING BOARD
COLONY, HARVELEM
SANKHALI GOA.
10. MR. GUNDU DEVAPA
BILGOGI, MAJOR OF AGE,
INDIAN NATIONAL,

RESIDENT OF, H. NO. 932,
SIDHKALA
BAMORDEMWADO, MOIRA
BARDEZ GOA-403507

11. MR. EKNATH HARIBA
BHINGUDA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, NARAYAN
NAGAR HONDA, P.O.PRATAP
NAGAR VIA SANKHALI
SATARI GOA-403505.
12. MRS. AVELINA AVITA LUIS
CALDEIRA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, MESTA BHAT,
MERCES P.O. SANTA CRUZ,
ILHAS GOA.
13. MR. EXCELSO CARIDADE
LOURENCO RODRIGUES
CARVALHO, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, BEHIND THE
CHURCH, BICHOLIM GOA.
14. MRS. NAREEN COLACO,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
BOCTAVADDO CHORAO,
ILHAS GOA.
15. MRS. NARCISSA SA
CORDEIRO, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 90,

DUMPEM UCASSAIM
BARDEZ GOA-403507.

16. MR. SURESH DAJI
DABHOLKAR, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, H.NO 172, H/1,
VIMA NIWAS, CANCAWADA,
CUCHELM MAPUSA BARDEZ
GOA-403507.
17. MR.PURSHOTTAM ANANT
DAMLE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 949,
VASANT NAGAR, SANKHALI
GOA-403505.
18. MRS. LYRA ESTEFANIA
D'COSTA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, 'VILLA FERNS,
SOCORRO CAREM, P.O.
PORVORIM, BARDEZ GOA-
403501.
19. MR. AMIA C. D'SOUZA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. 5 B, BIRMOTTEN,
BASTORA, P.O.MAPUSA,
BARDEZ GOA-403507.
20. MRS. JACINTA D'SOUZA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,

H.NO. E-90, GAURAVADDO
P.O. CALANGUTE BARDEZ
GOA-403516.

21. MRS. LEONOR IDA D'SOUZA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.210/141, VOLVADDO,
VEN HOLY CROS CHAPEL,
P.O. PILERNE, BARDEZ GOA.
22. MRS. MARIA SYLVIA
D'SOUZA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, LOBO
BUILDING, 18TH JUNE ROAD,
1ST FLOOR, ABOVE WHITE
NEGRO, PANAJI GOA.
23. MRS. SILVIA D'SOUZA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.358, KHAREM,
SOCOURA, P.O. PORVORIM
BARDEZ GOA-403501.
24. MRS. SHANTA RAGHUNATH
J. DESSAI, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, "LAXMI
KRUPA", H.NO. L-80,
HOUSING BOARD COLONY,
ALTO BETIM PORVORIM
BARDEZ GOA-403521
25. MRS. SUREKHA S. GAUNS
DESSAI, MAJOR OF AGE,

INDIAN NATIONAL,
RESIDENT OF, H.NO. 269/1,
VILLA ROSA, OPP. GOVT.
PRIMARY SCHOOL, DHULER
MAPUSA BARDEZ GOA.

26. MR. RAVINDA DATTARAM
DHURI, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 88/11,
NEAR OLD CHANDRAKANT
GARAGE, KHORLIM MAPUSA
BARDEZ GOA-403507

27. MRS. ODETTE FERNANDES,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.152, DIWAN BHATTI,
P.O. ARPORA BARDEZ GOA.

28. MR. MOHAN VITHU
GAONKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, NEW
HORIZON, PLOT NO.60,
P.D.A. COLONY P.O.
PORVORIM BARDEZ GOA-
403521

29. MR. VASANT SHANKAR
GAWAS, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT
OF,GAONKARWADA HONDA
P.O. HONDA, SATTARI GOA-
403530

30. MRS IYKARA GRACY
GEORGE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, CURICAD
HOUSE, P.O.
KADAPLAMALTON, P.B.NO.
686571, KOTTAYAM STATE OF
KERALA.
31. MR. PRAKASH RAJARAM
GHOTGE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, 202/34,
KAILASHNAGAR, P.O.
ASSONORA, BARDEZ GOA.
32. MR. RUI FRANCIS
GONSALVES, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO.1/1, P.O.
ARPORA BARDEZ GOA-
403516
33. MRS. SHAKUNTALA A.
GOVEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, SHARADA
NAGAR, BORDEM BICHOLIM
GOA.
34. MR. HARNUMANT
MAHADEV GURAV, MAJOR
OF AGE, INDIAN NATIONAL,
RESIDENT OF, H.NO.
202/50(1), KAILAS NAGAR, P.O.
ASSONORA, BARDEZ GOA-
403503

35. MRS. SUDHAKAR SHANTARAM HALDANKAR, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO. 273/26/9, SWAPANA TUSHAR, SHRIMATI NIWAS, RAMNAGAR COLVALE BARDEZ GOA.
36. MR. ISHWAR SANGAPPA HALYALI, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO.49/B, R.COLONY, MORLEM SATTARI GOA-403505.
37. MR. YESHWANT PRABHAKAR JOSHI, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, 178/49, DATTAPRASAD NIWAS, NARAYAN NAGAR(HONDA) POST-PRATAP NAGAR VIA SANKHALI GOA-403505.
38. MR. VITHAL TATU KANSE, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, 202/72 A, RAMCHANDRA NIWAS KAILAS NAGAR, ASSONORA BARDEZ GOA-403503
39. MR. MANOHAR V. KELKAR, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF,

H.NO. 136, MADHUBAN,
KANAPUR TISK SANKHALI
GOA-403505.

40. MR. MEER MOHAMMAD M.
KHANDAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 185,
WARD NO.5, NAYAWADA
VALPOI SATTARI GOA-403506
41. MRS. SULBHA M. KESARKAR,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.67/A, IGARJWADA,
MARNA SIOLIM BARDEZ
GOA
42. MRS. ARUNA KISHOR
KOLGE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, LAXMI
SHANKAR SADAM, FLAT-C,
3RD FLOOR, BEHIND
HANUMAN TEMPLE MAPUSA
BARDEZ GOA-403507
43. MRS. ANYANEKHA D.
KOLVEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, M-15,
HOUSING BOARD COLONY
VIDYANAGAR MARGAO GOA-
403601
44. MR. SASHIKANT BAPU
KUBAL, MAJOR OF AGE,

INDIAN NATIONAL,
RESIDENT OF, H.NO.82
GADACHA WADA, KER
PERNEM GOA.

45. MR. SHAM RAJARAM PAI
KUCHELKAR, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, 15/3, NEAR
SYNDICATE BANK,
GOKULWADI SAQUELIM
GOA-403505
46. MR. FREDRICK SILVEIRA
LOBO GHARSE, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, TONCA, D/1,
M.G. ROAD, OPP. DON
BOSCO HIGH SCHOOL
PANJIM GOA-403001
47. MRS. SHUBHANGI B.
MALWANKAR, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, GULMOHAR
BUILDING F-2, ALTINHO
PANAJI GOA.
48. MR. VIJAY BALA MASURKAR,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
NAGARGAO ROAD VELEES
VALPOI SATTARI GOA-403506
49. MRS. ALBERTINA PIEDADE
MENDONCA, MAJOR OF
AGE, INDIAN NATIONAL,

RESIDENT OF, H.NO.708,
SANTERXETTE ALDONA
BARDEZ GOA-403508

50. MR. BANJIRANG T. MORE,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.396/3, BELSURWADA
MALAR, DIWAR GOA
51. MR. PANDURANG M. MULIK,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF
SANKHALI, GOA.
52. MR. HARISHCHANDRA M.
NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 24-E,
MENEZES WADA, BASTORA
MAPUSA BARDEZ GOA.
53. MR. MOHAN RAMCHANDRA
NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO.
197,DEULWADA PALYE,
PERNEM GOA.
54. MR. NAMDEV ANANT NAIK,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.13/5, POMBURPA
GOLNAWADO P.O. CARONA,
BARDEZ GOA-403523.
55. MR. ANANT PANDURANG

NAIK, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 68,
VOGDAR KURPAS P.O.
BANDORA, PONDA GOA-
403401.

56. MR. NARAYAN VASU NAIK,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.298/A, DEVLAY
KHANDOLA MAREL GOA-
403107
57. MR. SADANAND VITHAL
NARVEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, 81-G,
TELIYAWADO, BASTORA, P.O.
MAPUSA BARDEZ GOA-
403507
58. MRS. SUDHA K. NEVGI,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.177, HOUSING BOARD
COLONY, MAPUSA BARDEZ
GOA-403507
59. MRS. VASANTI J. PANDIT,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF, 4,
SUJOY HOUSING SOCIETY,
SASTIWADA BORDEN,
BICHOLIM GOA.
60. MR. PRABHAKAR

CHANDRAKANT PARAB,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
MADHALAWADA ARAMBOL
PERNEM GOA.

61. MRS. WILMA C. BARRETTO E
PAES, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, AARKAY
PLAZA, 1ST FLOOR, B-BLOCK
C-3, DULER MAPUSA BARDEZ
GOA.
62. MR. GOVIND D. PAI NAIK,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF, AT
AJGAON BHOMWADA,
SAWANTWADI,
SHINDUDURG,
MAHARASTRA.
63. MR. PRAKASH NARAYAN
PANGAM, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 202/52,
KAILASNAGAR, ASSONORA,
BARDEZ GOA-403503.
64. MR. PRABHAKAR NARAYAN
PANSHIKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 432/2,
DHAMADE WADA, SHELDEN
QUEPEM GOA.
65. MR. GURUDAS V. PARAB,

MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO.1194, GAUNWADI, P.O. ANJUNA BARDEZ GOA-403509.

66. MR. BABURAO GUNDU PATIL, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO.1287, KELBAI WADA, SHARADA NAGAR MAYEM, BICHOLIM GOA.
67. MR. BABURAO PARVAT PATIL, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO. 1939, HARWALE HOUSING BOARD COLONY SANKHALI GOA-403505
68. MR. GAJANAN KRUSHNAJI PATIL, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO.264/3B, SHRI SIDDHI VINAYAK IV CROSS, SHASTRI NAGAR, NEAR GUJARAT BHAVAN, BELGAUM, KARNATAKA STATE.
69. MR. MASHNU KHACHU PATIL, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, ANAND RESIDENCY F-3, J.C. NAGAR, KURTI PONDA GOA-403401

70. MRS. AUREA EMA PEREIRA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
SEA GULL BUILDING, 2ND
FLOOR, BLOCK C/4, MARKET
AREA, PANAJI GOA-403001
71. MRS. RINA CARMELITA
PEREIRA, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO.871/4,
NAICAVADDO P.O. ALDONA
BARDEZ GOA-403508
72. MRS. SMITA R.
PRABHUDESSAI, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, H.NO.401,
PEQUENO KHARE, P.O.
ASSONORA BARDEZ GOA-
403503
73. MRS. SHAILAJA ASHOK
PINAGE, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, J/2 164,
PURSHOTTAM, DANGUI
COLONY, ALTO DULER
MAPUSA BARDEZ GOA-
403507
74. MR. SHIVANAND R. RAIKAR,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. 170, NEAR PREETI
HOTEL, AQUEM ALTO,

MARGAO SALCETE GOA

75. MR. XAVIER MARCELINO RIBEIRO, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO. K-30, QUEGDOVELIM, REIS MAGOS, BARDEZ GOA
76. MRS. MARIA DO CEU RODRIGUES, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, 460-E, DIAS BUILDING, RUA DE NATAL, FONTAINHAS PANJIM GOA-403001
77. MRS. NIRMALA N. DRAVID ALIAS MINAXI D. SADHALE, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, H.NO. 2212, SASTIWADA BORDEM, BICHOLIM GOA-403504
78. MRS.VANITA PRAKASH SAWANT, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF, MUNICIPAL BUILDING, BLOCK NO. C-G-6, TONCA P.O. CARANZALLEM, TISWADI GOA
79. MRS. SHOBA V. SAKHALKAR, MAJOR OF AGE, INDIAN NATIONAL, RESIDENT OF,

H.NO. 202/19, KAILAS
NAGAR, P.O. ASSONORA,
BARDEZ GOA-403503

80. MR. GOPINATH KRISHNA
SAWANT, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 467,
SALVADOR DO MUNDO
EKASHI, BARDEZ GOA
81. MR. TARABAI KAMLAKANT
SHIRODKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, DEULWADA
KORGAO PERNEM GOA-
403512
82. MR. GOVIND SIDDO
KULKARNI, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 17/6,
SUNSHINE GARDEN,
BEHIND NEW ERA BAKERY,
BALEWADI PUNE,
MAHARASTRA-411045
83. MR. JAMES SUNKAPPA,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. 1-11-46/58, GIRIJA
NIWAS, MAHA RANA PRATAP
COLONY, RAICHUR-
58410(KARNATAKA)
84. MR. RAGHOBAPU
TALAWANEKAR DEUSU,

MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
KORGAON PERNEM GOA.

85. MR. SAYYED ABDUL AZIZ,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. 923/193, NOOR-E-
SALAAM MANZIL, BEHIND 20
POINT, SOCORRO
PORVORIM BARDEZ GOA-
403501
86. MRS. LATA N. TARI, MAJOR
OF AGE, INDIAN NATIONAL,
RESIDENT OF, TANK
REVORA, NEAR HEALTH
CENTRE REVORA BARDEZ
GOA.
87. MRS. JULIA EUFEMIA VAZ,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO. E-351, C 5/157, NEAR
ST. SEBASTIAN'S CHAPEL,
FONTAINHAS, PANAJI GOA.
88. MR. DRUCILLA VELHO,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
H.NO.10, PORTAIS PANAJI
GOA.
89. MR. ASHOK RAGHUVIR
VERNEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 386/B,

1ST PALVEM, P.O.
CHINCHINIM SALCETE GOA-
403715

90. MR. RAMAKANT DAMODAR
VERNEKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 146,
CHIMBEL ROAD,
CHINCHWADA CHIMBEL
GOA-403006
91. MR. CHANDRAKANT
NARAYAN VETE, MAJOR OF
AGE, INDIAN NATIONAL,
RESIDENT OF, H.NO.
202/155/A, LAXMI NARAYAN,
KAILAS NAGAR, P.O.
ASSONORA, BARDEZ GOA-
403503
92. MR. RAMESH SONU
VOLVOIKAR, MAJOR OF AGE,
INDIAN NATIONAL,
RESIDENT OF, H.NO. 496/1,
RASHMI KUNJ, ST. ANN'S
COLONY, DHANA, TIVIM-P.O.
BARDEZ GOA.
93. MR. MANOHAR JOSHI,
MAJOR OF AGE, INDIAN
NATIONAL, RESIDENT OF,
KAPIL NIWAS, VAZEM
SHIRODA, PONDA GOA.
94. MRS. SHAKUNTALA R.
SHIRODKAR, MAJOR OF AGE,

INDIAN NATIONAL,
RESIDENT OF, H.NO. 108,
AMBEGAL, FARMAGUDI
PONDA GOA.

95. MRS. GERTRUDE VIEGAS, MAJOR OF
AGE, INDIAN NATIONAL, RESIDENT OF,
H.NO.353, RUA A.C. PACHECO BORDA,
MARGAO SALCETE GOA-403601 Petitioners.

V/S

- 01 THE STATE OF GOA,
THROUGH ITS CHIEF SECRETARY,
SECRETARIAT, ALTO PORVORIM
GOA.
- 02 THE DIRECTOR,
DIRECTORATE OF EDUCATION,
GOVERNMENT OF GOA,
PORVORIM, GOA,

Mr. Jitendra P. Supekar, Advocate for the Petitioners.

Mr. Sagar Dhargalkar, Additional Govt. Advocate for the
Respondents

***WITH
WRIT PETITION NO.569 OF 2016***

1. SMT. ASHVINI G. LOTLIKAR,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF ARLEM, RAYA 50A,
SALCETE, GOA.
2. SMT. MARIA NIVIA GUARDALUPE GOMES
ALIAS MARIA ALMEIDA,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF HOUSE NO. 686,

- "VIVENDA GOMES" NR DON BOSCO
INSTITUTE, FATORDA, GOA
3. SMT. FLAVIA BARROS,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF G-2 GOMATI BLDG.
COLMOROD, NAVELIM, SALCETE, GOA
 4. SMT. BEBI G. BORKAR,
ALIAS SHUBHADA SINAI SALELKAR,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF SUVIDYA APTS, F2,
1ST FLOOR, BEHIND VICTOR BAR
AGALI, GOGOL, FATORDA.
 5. SMT. RANJANA R. NAIK,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. L G4,
HOUSING BOARD COLONY,
ALTO PORVORIM, BARDEZ, GOA.
 6. SMT. SAROJANI V. POWAR,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF KURTARKAR TOWNSHIP
B S1 AMBAJI,
FATORDA, MARGAO, GOA.
 7. SMT. SHASHIKALA M. POWAR,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 2/3518,
MARIA JULIA APTS, WARD NO. 3,
FATORDA, MARGAO.
 8. SMT. ANA MARIA ESMERALDA
VAZ E CLEMENTE,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 338/2,
MODSAI, MACASANA, SALCETE, GOA.
 9. SHRI. VINAYAK TUKARAM PEDNEKAR
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H.NO.103,
DATTAPRASAD BUILDING,
NAGAZAR CURTY, PONDA, GOA.

10. SHRI. PANDURANG VISHNU RIVONKER
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF AT4,
D.N. GARDEN HOMES, MUGALLI,
SAO JOSE DE AREAL.
11. SMT. SHOBHANA M. PARVATKAR
ALIAS SHOBHANA S. PARVATKAR
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF MULAS PARODA,
SALCETE, GOA.
12. SMT. SUFALA S. GAONKAR
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF VASCO HEAD LAND
SADA, VASCO-DA-GAMA.
13. SHRI. BAIRU MINAJI MANOLKA,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 110/1,
PILAR, GOA VELHA.
14. SHRI. GOPAL BHIKAJI GAWADE,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF AT POST DODAMARG,
TALK DODAMARG, DIST. SHINDADURG
MAHARASTRA.
15. SHRI. REDKAR VIJAY UMAJI,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 2136,
RUDRESHWAR COLONY HARAVALE,
SANKHATI GOA.
16. SHRI. SUBHASH K. KHOBREKAR,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF FLAT NO. 405,
SUNSET LAGOON BLDG,
NR. MPT HOSPITAL,
BUSY BEE SCHOOL ROAD,
DESTERRO, VASCO DA GAMA, GOA.
17. SMT. TRINDADE VAZ,
MAJOR OF AGE, INDIAN NATIONAL,

- RESIDENT OF 2ND FATRADE VARCA,
H. NO. 750, VARCA, SALCETE GOA.
18. SMT. KAMALA R. NAIK,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 714,
LOTUS BLDG., NEW VADDEM,
VASCO-DA-GAMA.
19. SHRI. MARUTI V. PATIL,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF 1ST FLOOR, F3,
AGASSAIM BAZAR BLDG.
BAIXO DE IGREJA, AGASSAIM, GOA.
20. SMT. SILVIA C. NICETA BARROS
MENEZES,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF H. NO. 3/E,
NEAR FAILAKA HOTEL ADSULIM,
BENALIM, SALCETE GOA.
21. SMT. FELCY FARIA,
MAJOR OF AGE, INDIAN NATIONAL,
RESIDENT OF SILVER ARC, BLOCK C,
1ST FLOOR, FLAT NO. 5,
DONGORWADO, FATORDA,
MARGAO –GOA. Petitioners.

V/S

1. THE STATE OF GOA,
THROUGH ITS CHIEF SECRETARY,
SECRETARIAT, ALTO PORVORIM GOA.
2. THE DIRECTOR,
DIRECTORATE OF EDUCATION,
GOVERNMENT OF GOA,
PORVORIM, GOA, Respondents.

Mr. Jitendra P. Supekar, Advocate for the Petitioners.

Ms. Susan Linhares, Additional Govt. Advocate for the Respondents.

***Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.***

***Reserved on : 23rd January, 2020
Pronounced on : 11th February, 2020***

JUDGMENT : (Per M.S. Sonak, J.)

Heard the learned Counsel for the parties.

2. Learned Counsel for the parties agree that all these Petitions can be disposed of by a common Judgment and Order.

3. According to us as well, the main issue involved in all these Petitions is the same, though, the facts in Writ Petition No.439/2014 are slightly different than the facts involved in the remaining Petitions. Accordingly, it is only appropriate that we dispose off all these Petitions by a common Judgment and Order, no doubt, having regard to some of the distinguishing features in Writ Petition No.439/2014.

4. The Petitioners, in all these Petitions were inducted in service prior to the appointed day i.e. 30th May, 1987, as provided under the Goa, Daman and Diu Reorganisation Act, 1987 (Reorganisation Act), a Parliamentary enactment, by which the State of Goa and the Union Territory of Daman and Diu came into being.

There is also no dispute that the age of superannuation for the various posts to which the Petitioners came to be appointed was, as on the appointed day, 60 years. However, the Petitioners, post-appointed day, were made to retire at the age of 58 years which they contend, is in violation of the proviso to Section 60(6) of the Reorganisation Act which provides that the conditions of service applicable immediately before the appointed day, shall not be varied to the disadvantage of the employees appointed prior to the appointed day, except with the approval of the Central Government.

5. The issue as to whether the retirement of the Petitioners at the age of 58 years was valid or not, is really no longer *res integra*, not only in the light of the clear provisions in the proviso to Section 60(6) of the Reorganisation Act, but also the rulings of the Hon'ble Supreme Court and this Court, interpreting similar or the same provisions. The State of Goa had sought to justify such superannuation in case of some other similarly situated employees by relying upon an *ex post facto* sanction dated 30th July, 2001 from the Central Government. However, a Division Bench of this Court in *Zilo Zo and ors. vs. State of Goa and ors.*¹ ruled that the proviso to Section 60(6) of the Reorganisation Act only contemplated '*previous approval*' of the Central Government and, therefore, any *post facto* approval was of no avail. Such post facto approval dated 30th July,

¹ WP No.609/2008 decided on 6/5/2011

2001 was, in fact, struck down and it was held that the Petitioners in the case of *Zilo Zo* (supra) were entitled in law to continue upto the age of 60 years, that being their conditions of service prior to the appointed day. The relief was, ultimately, moulded and directions were issued to grant the said Petitioners retiral benefits (but not back wages) on the basis that they continued in service until they attained the age of 60 years. The arrears of payment were directed to be paid within 3 months from the date of the decision.

6. In these Petitions, the Petitioners seek similar reliefs to that which were applied for in the case of *Zilo Zo* (supra). However, perhaps, realising that the present Petitions have been instituted after some delay, the learned Counsel for the Petitioners, in the course of their arguments, submitted that the reliefs prayed for by them, may be suitably moulded, so as to award the Petitioners retiral benefits on the basis that they had continued in the service upto the age of 60 years.

7. The learned Counsel for the Petitioners, viz. Mr. Parikshit Sawant, Ms. Asha Desai and Mr. Jitendra Supekar, contend that this is a case of continuing wrong, particularly when it comes to the issue of fixation and award of correct pension and other retiral benefits and, therefore, the principle of delay or laches will not apply. They

submit that in the facts of the present case, arrears, upto the extent of 3 years prior to the institution of these Petitions may be allowed. They submit that the Petitioners had made representations and, this is not a case where the Petitioners can be described as mere fence sitters. They submit that laches is not a mere physical running of time and the delay, if any in institution of these Petitions, has not created any right in any other parties which, it would be inequitable to disturb at this point of time.

8. The learned Counsel for the Petitioners point out that the Respondents have not even filed any returns in these Petitions and the Respondents, in any case, cannot claim to have any vested right to continue to practise hostile discrimination against the Petitioners. They point out that there can be no acquiescence or waiver, when the issues of fundamental right, equality or the right to life are involved. They point out that pension is no longer a bounty, but it is a right to be read in the provisions of Article 21 of the Constitution of India. They point out that even, otherwise, limitation never extinguishes any right as such but, at the highest may extinguish a remedy. They point out that the State Government, as a model litigant, should never deny the citizens, including, in particular, the retired employees their due pension on the basis of some hyper technical pleas like delay and laches.

9. The learned Counsel for the Petitioners rely on *Haryana State Electricity Board vs. State of Punjab and ors.*² *Union of India and ors. vs. Tarsem Singh*³; *State of Madhya Pradesh and ors. vs. Yogendra Shrivastava*⁴ *Asger Ibrahim Amin vs. Life Insurance Corporation of India*⁵; *B. Venkatesalu and anr. vs. The Additional Chief Secretary and others*⁶; *State of Karnataka and ors. vs. N. Parameshwarappa and others*⁷ *State of Karnataka and ors. vs. C. Lalitha*⁸; *N.S. Balasubramanian and ors. vs. Food Corporation of India*⁹; *Tukaram Kana Joshi and ors. vs. Maharashtra Industrial Development Corporation and ors.*¹⁰; *Dehri Rohtas Light Railway Company Limited vs. District Board, Bhojpur and ors.*¹¹ and *Punjab National Bank and ors. vs. Surendra Prasad Sinha*¹² in support of their contentions.

10. For all the aforesaid reasons, the learned Counsel for the Petitioners submit that these Petitions may be allowed and the reliefs, at least in the moulded form proposed by them, be granted.

² (1974) 3 SCC 91

³ (2008) 8 SCC 648

⁴ (2010) 12 SCC 538

⁵ (2016) 13 SCC 797

⁶ WP No.5263/2013 decided by Madras High Court on 22/12/2014

⁷ (2003) 12 SCC 192

⁸ (2006) 2 SCC 747

⁹ 2006 DGLS (Mad) 1014

¹⁰ (2013) 1 SCC 353

¹¹ (1992) 2 SCC 598

¹² 1993 Supp. (1) SCC 499

11. Mr. Dhargalkar, Mr. Shirodkar and Ms. Linhares, learned Additional Government Advocates appearing for the Respondents, in the first place attempted to contend that there is a conflict between the decisions of the Division Bench of this Court in *Dr. A.K. Joshi vs. State of Goa and anr.*¹³ and *Zilo Zo* (supra). On this ground, they submit that *Zilo Zo* (supra) may be declared as *per incuriam* and the ratio of the same may not be followed in case of the present Petitioners. In any case, they point out that the present Petitions are barred by inordinate and unexplained delay and laches. The learned Additional Govt. Advocate point out that the Hon'ble Apex Court in the case of *U.P. Jal Nigam and another vs. Jaswant Singh and another*¹⁴ has denied the relief to the Petitioners who were somewhat similarly placed. They point out that this is not at all a case of any continuing wrong. They submit that at the highest, this may be a case of some injury or damages continuing on account of a concluded wrong. They rely on *Balakrishna Savalram Pujari Waghmare and ors. vs. Shree Dhyneshwar Maharaj Sansthan and ors.*¹⁵ to submit that in such a case, the Petitioners cannot seek any redressal from the Courts of law which are bound by the statute of limitation, or otherwise by the principle of delay and laches.

12. For all these reasons, they submit that the present Petitions

¹³ WPs No.159/2003 and 196/2005 decided on 12.11.2009

¹⁴ 2006 (11) SCC 464

¹⁵ AIR 1959 SC 798

may be dismissed.

13. The rival contentions now fall for our determination.

14. In all these Petitioners, there is no dispute whatsoever with regard to the following basic facts :

(i) That all the Petitioners were in service prior to the appointed day as defined under Section 2(b) of the Reorganisation Act; and

(ii) That the age of superannuation in respect of the posts which the Petitioners held prior to the appointed day, was 60 years.

15. Section 60(6) of the Reorganisation Act, reads as follows :

“60 (6) Nothing in this section shall be deemed to affect, on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the State of Goa or the Union:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.”

16. There is absolutely no dispute that to the Petitioners, in the present Petitions, the provisions of Section 60(6) clearly apply. Therefore, in terms of the proviso to Section 60(6) of the

Reorganisation Act, the State Government was not entitled to vary the conditions of service of the Petitioners to their disadvantage, except with the previous approval of the Central Government. The right to continue in service until the age of 60 years was, undoubtedly, a condition of service applicable to the Petitioners in these Petitions. By requiring the Petitioners to retire at the age of 58 years, the State Government has, therefore, varied to the disadvantage of these Petitioners their conditions of service applicable immediately before the appointed day. There was no prior approval of the Central Government for such disadvantageous variation in the condition of service. Accordingly, the action of the State Government in requiring the Petitioners to retire at the age of 58 years or preventing them from continuing in service until they attained age of 60 years, was illegal, ultra vires, null and void, taking into consideration the proviso to Section 60(6) of the Reorganisation Act.

17. The proviso to Section 60(6) of the Reorganisation Act, refers to “*previous approval*” of the Central Government. In this case, therefore, the post facto approval dated 30th July, 2001, secured by the State Government from the Central Government, is really of no avail, as was specifically held by the Division Bench of this Court in the case of *Zilo Zo* (supra). In taking this view, the Division Bench of this Court has relied upon the decisions of the Hon'ble Supreme

Court, in which it is held that the approval, as contemplated under the proviso to Section 60(6) of the Reorganisation Act has to be prior or previous and cannot be post facto.

18. The contention, based upon the decision of this Court in *A.K. Joshi* (supra), or the attempt to style the decision in *Zilo Zo* (supra) as *per incuriam*, is quite misconceived. *A.K. Joshi* (supra), was a Petition instituted by Professor & Head of the Department of English, Goa University, whose service conditions were governed by the Goa University Act, 1984. To such a Petitioner, the provisions of the Reorganisation Act, are not at all attracted. Accordingly, it cannot be said that there is any conflict as such between *A.K. Joshi* (supra) and *Zilo Zo* (supra), so as to hold that *Zilo Zo* (supra) is *per incuriam*, as urged by the learned Additional Government Advocates.

19. Admittedly, even the decision in *Zilo Zo* (supra) was never challenged by the State Government. But, rather the same was accepted and even implemented in case of the Petitioners who were similarly placed. The Petitioners have, for example, placed on record the decisions in *Ashok Madhusudhan Ganpate vs. State of Goa and ors*¹⁶ and *Mrs. Mary Fernandes and ors. vs. State of Goa and another*¹⁷. To a query as to whether the State Government had instituted a Special Leave Petition to question the decision in *Zilo Zo*

¹⁶ WP NO.341/2009 decided on 6/5/2011

¹⁷ WP NO. 47/2007 decided on 24/4/2013

(supra), the learned Additional Government Advocates stated that they were not aware whether this was done. However, it is not the case of the learned Additional Government Advocates that the decision of this Court in the case of *Zilo Zo* (supra) or for that matter the decisions in *Ashok Ganpate* (supra) or *Mary Fernandes* (supra) were ever interfered with by the Hon'ble Apex Court. Therefore, it is really not open to the State Government to raise any contentions which run counter to the law laid down by this Court in the cases of *Zilo Zo* (supra), *Ashok Ganpate* (supra) and *Mary Fernandes* (supra).

20. In fact, in the case of *Mary Fernandes* (supra), we find that the learned Advocate General for the State of Goa had made a statement that in view of the earlier Judgment passed by this Court, the State Government would treat the Petitioners in the said Petition as having retired at the age of 60 years, only for the purpose of granting pensionary benefits, without any entitlement of pay. The proposal put-forth by the learned Advocate General was agreed by the Petitioners in the said Petition and gave up other reliefs sought for in their Petition. Accordingly, in *Mary Fernandes* (supra), the State Government was directed to treat the Petitioners as having retired at the age of 60 years and to grant them the pensionary benefits, without any back wages.

21. As if all this was not sufficient, the State Government itself took cognizance of the Judgment and Order in *Mary Fernandes* (supra), and on the basis of the same issued an order dated 9th October, 2014, extending certain benefits to Government teachers who were made to retire prematurely at the age of 58 years, when in fact, they ought to have been allowed to continue in service until they attained the age of 60 years.

22. The order dated 9th October, 2014, makes specific reference to the Judgment and Order in *Mary Fernandes* (supra) i.e. Writ Petition No.47/2007. The order dated 9th October, 2014, however, granted only the following benefits to the prematurely retired Government teachers :

(a) The prematurely retired teachers at the age of 58 years (on superannuation) will be entitled for two notional increments on the last pay drawn for the purpose of pension only. Pension will be revised accordingly and the revised pension will be effective from 01/04/2013.

(b) These teachers (beneficiaries) will also be entitled for Pensionary benefits such as revised gratuity and commutation of pension payable based on the revised pension. The Revised commutation value will be paid to the pensioner concerned based on the revised pension and

will be restored after 15 years from the respective dates of commutation as provided in Government of India's decision No.1 under Rule 10 of CCS (Commutation of Pension) Rules, 1981 and as per the clarification No.3 of the Office Memorandum No.38/79/2008-P&PW(G) dated 16.2.2009.

23. Mr. Sawant, learned Counsel for the Petitioners in Writ Petition No.439/2014 has, however, pointed out that benefit of the order dated 9th October, 2014 was curiously restricted to only the prematurely retired Government teachers, but not to other employees, like the Petitioners in Writ Petition No.439/2014, who too were prematurely retired at the age of 58 years and not permitted to continue in service until the age of 60 years. He submits that this was clearly a case of hostile discrimination practised against the Petitioners in Writ Petition No.439/2014.

24. This means that there is no option than to hold that the Petitioners, in all these Petitions, were entitled to continue in service until they attained age of 60 years and the action of the State Government in requiring them to retire from service upon attaining the age of 58 years was, *ex facie*, illegal, null and void, going by the proviso to Section 60(6) of the Reorganisation Act as interpreted by

the various decisions of the Hon'ble Apex Court, as well as the decisions of various Division Benches of this Court. The contention to the contrary urged by the learned Additional Government Advocates, with understandable diffidence, deserves no acceptance.

25. Despite the aforesaid position, it is necessary to determine whether all these Petitions are barred by inordinate delay and laches and, further, whether the Petitioners could be regarded as “*fence sitters*” who deserve no relief whatsoever, even in moulded form as urged by them ?

26. To attempt to answer the aforesaid issues, it is necessary to refer to the pleadings in the Petitions. Suffice to note, in none of these Petitions, the State Government has bothered to file any affidavit-in-reply. In any case, what is pleaded by the Petitioners, is a matter of record and, therefore, it is not as if these Petitions involve any seriously disputed questions of fact.

27. In respect of Writ Petition No.439/2014, which was instituted in March, 2014, or thereabouts, the Petitioners concede that they retired on various dates between 31st May, 2000 to 30th November, 2004. The Petitioners have pleaded that after they learnt about the institution of Writ Petition No.609/2008 by Zilo Zo and

others, they addressed representations to various authorities of the State Government, complaining about their premature retirement at the age of 58 years and prayed for monetary/post retirement benefits on the basis that they ought to have been continued until the age of 60 years. These representations have been placed by the Petitioners on record and it is not even the case of the State Government that such representations were never made by these Petitioners.

28. This Court decided the case of *Zilo Zo* and others on 6th May, 2011, declaring that post facto approval secured by the State Government from the Central Government on 30th July, 2001 was illegal, null and void and that the Petitioners in *Zilo Zo* (supra) could not have been retired at the age of 58 years, but were entitled to continue until the age of 60 years.

29. The record also indicates that though the benefit in the matters of pension fixation was extended only to the Petitioners in *Zilo Zo* and others, following the ruling in *Zilo Zo* (supra), similar relief was extended to Ashok Ganapatye in Writ Petition No.341/2009 and Mary Fernandes and others in Writ Petition No.47/2007. In fact, the decision in *Mary Fernandes* (supra) is crucial because therein the learned Advocate General made a statement that in view of the earlier Judgment passed by this Court,

the State Government would treat the Petitioners in Writ Petition No.47/2007 as having retired at the age of 60 years only for the purpose of granting pensionary benefits, without entitlement to pay.

30. This means that even the State Government, as late as April, 2013 accepted, without any demure, the position that the retirement of the employees who were in service prior to the appointed day and whose age of superannuation was 60 years, at the age of 58 years was not proper and that the State on its own, would treat such employees as having continued in service upto the age of 60 years, though only for the purpose of granting pensionary benefits, without any entitlement of pay.

31. The aforesaid position is further clear from the order dated 9th October, 2014 made by the State Government itself, taking express cognizance of the Judgment and Order in *Mary Fernandes* (supra) i.e. Writ Petition No.47/2007 decided on 24th April, 2013. By this order, as noted earlier, only certain benefits were extended to the prematurely retired Government teachers. Writ Petition No.439/2014, as noted earlier, was instituted sometime in March, 2014. From the pleadings, it is apparent that the Petitioners in this Petition, could not be styled as “*fence sitters*” because, they had already made their representations even prior to the decision in the

case of *Zilo Zo* (supra).

32. Besides, the Petitioners in this Petition, had raised a legitimate grievance that they were not accorded the same treatment which was accorded to the Petitioners in *Mary Fernandes* (supra) by the State Government on its own accord, as is evident from the statement of the learned Advocate General made therein.

33. The Petitioners in Writ Petition No.439/2014, also had yet another legitimate grievance that even the limited reliefs flowing from the order dated 9th October, 2014, whereby the State Government, on its own accord, were not extended to them even though there was no qualitative difference between their cases and the case of the prematurely retired teachers. Besides, the record indicates that the representations of the Petitioners in Writ Petition No.439/2014 were rejected vide communication dated 3rd May, 2013 and, as noted earlier, this Petition was instituted sometime in March, 2014. Taking into consideration that the basic grievance of the Petitioners relates to re-fixation of pension on the basis that they ought to have been continued in service until they attained age of 60 years, it is difficult to say that Writ Petition No.439/2014 is barred by some inordinate delay or laches.

34. In so far as Writ Petitions No.961/2015, 453/2016 and 461/2016 are concerned, it does not appear that these Petitioners had made any representation prior to the decision of this Court in *Zilo Zo* (supra). However, the Petitioners in these Petitions have pointed out that there was no good reason on the part of the State Government not to extend to them the same benefits as were extended by the State Government itself to the Petitioners in the case of Mary Fernandes and others.

35. These Petitioners have also pointed out that the order dated 9th October, 2014 itself recognizes that several Government teachers were prematurely retired and, therefore, such prematurely retired Government teachers are entitled to some additional retiral benefits on the basis of the decision of this Court in *Mary Fernandes* (supra), to which a specific reference was made in the order dated 9th October, 2014. The Petitioners, in these Petitions, contend that the State Government was not justified in restricting such benefits to those indicated in the order dated 9th October, 2014 and the Petitioners should have been granted pensionary benefits on the basis that they ought to have been continued in service until attaining age of 60 years.

36. The Petitioners, in these Petitions, submit that at this stage, they are really not seeking any back wages or even arrears as

such. But they submit that this is a fit case to mould the relief, so that the Petitioners are paid revised pension on the basis that they have continued in service until age of 60 years and some arrears for a period of at least 3 years prior to the institution of their Petitions.

37. According to us, the Petitioners in Writ Petitions No. No.961/2015, 453/2016 and 461/2016 can be said to have instituted their respective Petitions with some delay, however, as has been pointed out by the Hon'ble Supreme Court in the case of *M/s. Dehri Rohtas Light Railway Company Limited* (supra), there is distinction between mere delay and laches. The rule which says that the Court may not enquire into belated and stale claims, is not a rule of law, but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is a reasonable explanation for the delay. The real test to determine delay in such cases is that the Petitioner should come to the writ court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not physical

running of time. Where the circumstances justifying the conduct exist, the illegality which is manifest cannot be sustained on the sole ground of laches.

38. In all these cases, we have to consider that the Petitioners are retired employees and pensioners. In all these cases, the sole ground on which the State Government seeks to justify its illegal action of prematurely retiring the Petitioners is that of delay and laches. Therefore, the learned Counsel, in the course of arguments, have made it clear that the Petitioners will now be satisfied with only refixation of their pension on the basis that they had continued in service until 60 years. There is material on record which suggests that the State Government, on its own, has extended the benefit of revised pension to the employees identically placed to that of the Petitioners. The State Government has itself acknowledged the discrimination meted out to various sets of employees by making specific reference to the decision of this Court in *Mary Fernandes* (supra). Taking into account all these circumstances, we cannot say that the Petitioners should be denied the reliefs, at least in the moulded form, by way of revision in the pension and pensionary benefits.

39. Since the relief in all these Petitions is now really restricted to fixation of pension on the basis that the Petitioners ought to have

continued in service upto the age of 60 years, the principles laid down by the Hon'ble Apex Court in certain decided cases, will become applicable.

40. In *Tarsem Singh* (supra), the Hon'ble Apex Court was concerned with a Respondent working in Indian Army, who was invalidated out of army service on 13th November, 1983. He, however, approached the High Court only in the year 1999 *i.e.* after 16 years, seeking a direction to the Appellant-Union of India for payment of disability pension. The learned Single Judge allowed the writ petition, but the relief of payment of arrears was restricted to 38 months prior to the filing of the writ petition. The Respondent appealed to the Division Bench, which directed payment of arrears from 13th November, 1983 *i.e.* the date on which the same became due and payable. The question before the Hon'ble Supreme Court was whether the Division Bench was justified in directing payment of arrears for a period of 16 years, instead of restricting it to only 3 years.

41. The Hon'ble Apex Court, after reference to the decisions in *Balakrishna Savalram Pujari Waghmare* (supra) on the aspect of continuing wrong, made the following observations in paragraph 7 :

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where

remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

42. Finally, the Hon'ble Apex Court held that the High Court was not justified in directing payment of arrears relating to 16 years and that too with interest. The award of arrears should have been restricted to only 3 years before the date of writ petition or from the date of demand to the date of writ petition, whichever was lesser.

43. *Tarsem Singh* (supra) recognizes that one of the exceptions to the rule that normally a belated service related claim will be rejected on the ground of delay and laches, is a case relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained.

44. In the present case, similar to the case in *Tarsem Singh* (supra), the Petitioners who were prematurely retired at the age of 58 years, as a result of such premature retirement, continued to draw pension at the rates which are lesser than the rates which similarly placed employees referred to in *Zilo Zo* (supra), *Ashok Ganapate* (supra) and *Mary Fernandes* (Supra). This is not a case where award of correct pension to the Petitioners would affect any third parties, or would unsettle the settled rights of third parties. Accordingly, there is no reason to deny to the Petitioners revised pension, at least from the date of this Judgment and Order, in the peculiar facts and

circumstances of the present case.

45. In *M.R. Gupta v. Union of India*¹⁸ the Appellant approached the High Court in 1989 with a grievance in regard to his initial pay fixation with effect from 1.8.1978. The claim was rejected as it was raised after 11 years. The Hon'ble Apex Court applied the principles of continuing wrong and recurring wrongs and reversed the decision of the High Court by observing thus :

5. ... The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time-barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion, etc., would also be subject to the defence of laches, etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation

¹⁸ (1995) 5 SCC 628

existing on 1-8-1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation, the application cannot be treated as time-barred....”

46. In *Shiv Dass vs. Union of India*¹⁹, the Hon'ble Apex Court ruled that in case of pension, the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. If petition is filed beyond a reasonable period, say three years, normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years.

47. In *Yogendra Shrivastava* (supra), the issue was about payment of difference in non-practicing allowance (NPA) to the Respondents from their respective dates of appointment. The Respondents were appointed from 1982 onwards, who had approached the Tribunal only in the year 1998 or thereafter. Hon'ble Apex Court however, held that where the issue relates to payment or fixation of salary or any allowance, the challenge is not barred by limitation or the doctrine of laches, as the denial of benefit occurs every month when the salary is paid, thereby giving rise to a fresh cause of action, based on continuing wrong. Though the lesser

¹⁹ (2007) 9 SCC 274

payment may be a consequence of the error that was committed at the time of appointment, the claim for a higher allowance in accordance with the Rules (prospectively from the date of application) cannot be rejected merely because it arises from a wrong fixation made several years prior to the claim for correct payment. But, in respect of grant of consequential relief or recovery of arrears for the past period, the principle relating to recurring and successive wrongs would apply. Therefore, the consequential relief of payment of arrears will have to be restricted to a period of three years prior to the date of original application.

48. In *Asger Ibrahim Amin* (supra) the question which fell for consideration was whether the Appellant was entitled to claim pension even though he resigned from service of his own volition and, if so, whether his claim on this count is barred by limitation and laches. The Appellant resigned on 28.01.1991 after having worked for 23 years and 7 months in LIC. On 08.08.1995 i.e. post promulgation of Pension Rules, 1995, the Appellant inquired from the LIC whether he was entitled to any pension. The LIC, in the year 1995 itself informed him that no pension was payable. Upto the year 2000, the Appellant did nothing. However, prompted by news in a daily regards the judgments of the High Court and Tribunal, he requested the LIC to reconsider his case for pension. The request was

unanswered and therefore, in 2011 he sent a legal notice to the LIC. In response, the LIC reiterated that the Appellant was ineligible for any pension. Therefore, on 29.03.2012 i.e. after a period of almost 21 years, the Appellant filed a writ petition (Special Civil Application) before the High Court, which was dismissed by the learned Single Judge vide judgment and order dated 05.10.2012. The Letters Patent Appeal was also dismissed on the grounds of delay of almost 14 years as also on merits vide judgment and order dated 01.03.2013. Against, which the Appellant instituted the appeal before the Hon'ble Apex Court.

49. The Hon'ble Apex Court after quoting para 7 of *Tarsem Singh* (supra) made the following significant observations, in the context of delay in matters pertaining to the claims of pension :-

“We respectfully concur with these observations which if extrapolated or applied to the factual matrix of the present case would have the effect of restricting the claim for pension, if otherwise sustainable in law, to three years previous to when it was raised in a judicial forum. Such claims recur month to month and would not stand extinguished on the application of the laws of prescription, merely because the legal remedy pertaining to the time- barred part of it has become unavailable. This is too well entrenched in our jurisprudence, foreclosing any fresh consideration”.

50. The Apex Court, thereafter examined the case of the

Appellant on merits and held that the Appellant was entitled to pension. The Hon'ble Apex Court also observed that the State being a model employer should construe the provisions of a beneficial legislation in a way that extends the benefit to its employees, instead of curtailing it. Finally, the Hon'ble Apex Court held that considering the huge delay, not explained by proper reasons, on the part of the Appellant in approaching the Court, the benefits of arrears of pension payable to the Appellant must be limited to three years preceding the date of the petition filed before the High Court.

51. According to us, the principle laid down in the aforesaid decisions is that there is difference between delay per se and laches. Laches arise where a parallel right is created in third parties and it would not be equitable to disturb such parallel right where the petitioner is indolent. However, where the circumstances justifying the conduct exist, the illegality which is manifest cannot be sustained on the ground of laches alone. Further, even the original action, as a result of which there is a mistake in pay fixation or a mistake in award of pension and pensionary benefits at the correct rates may have taken place several years ago, that, by itself, is no reason to deny the relief by specifically restricting the same or moulding the same. In most of the cases, referred to above, it was perhaps possible to urge as what the learned Additional Government Advocates in the present

Petitions urged that the wrong, in question, was concluded several years ago and what the Petitioners are suffering the damages on account of such concluded wrongs. However, the Hon'ble Apex Court has held that when it comes to fixation of pay, or fixation of pension, there is no scope to uphold such contentions, because the cause of action accrues practically each month when the employees are condemned to accept lesser pay or lesser pension, even though their legal entitlement is for higher pay or higher pension. In holding so, the Hon'ble Apex Court, having considered its earlier decision in *Balakrishna Savalram Pujari Waghmare* (supra), we are not persuaded to hold that the principle in *Balakrishna Savalram Pujari Waghmare* (supra) should be so interpreted to perpetuate the continuing wrong, especially in the matters of payment of proper pension to the Petitioners in these Petitions.

52. It is necessary to also make a reference to the decision in *N. S. Balasubramanian* (supra), where the Madras High Court was concerned with the prayer to issue a direction to the Respondents to extend the benefits arising from the judgment in O.P. No.13651 of 2001 dated 20.10.2003 as confirmed by the Division Bench as well as by the Hon'ble Supreme Court, to the Petitioners, who were identically situated by stepping up the Petitioners pay on par with that of the Petitioners in the said petition with effect from

02.01.1993 with all consequential benefits including the arrears of pay etc. By way of defence, the Food Corporation of India has urged that the petition was barred by delay, laches, estoppel, waiver and acquiescence. The High Court however took a view that there is no estoppel against or waiver of fundamental right as held by the Hon'ble Apex Court in *Olga Tellis Vs Bombay Municipal Corporation* [AIR 1986 SC 180]. The High Court also referred to *Basheshwar Nath Vs Commissioner of Income Tax, Delhi* [35 ITR 190 (SC)], in which, it was held that there can be no waiver of the fundamental right founded in Article 14 of the Constitution. Whilst rejecting the objection raised by the State with regard to the estoppel and waiver, the High Court also referred to *Nar Singh Pal Vs Union of India and others* [(2000) 1 LLJ 1388 SC], in which, it was held that mere acceptance of retrenchment compensation paid to the employee did not mean that he had surrendered all his constitutional rights and that the fundamental rights cannot be bartered away and compromised nor there can be any estoppel against exercise of fundamental right available under the Constitution. The High Court also referred to the ruling of the Hon'ble Apex Court in the *State of Karnataka Vs N. Parameshwarappa* [(2003) 12 SCC 192], in which, it was held that there can be no reasonable justification to confine the relief to only such of the teachers who approached the Court and having regard to the fact that the relief related to the revision of scales

of pay, every one of that class of teachers would be entitled to the benefit, notwithstanding that they had not approached the Court. The High Court referred to yet another decision of the Hon'ble Apex Court in *Govind Ram Purohit Vs Jagjiwan Chandra* [1999 SCC 788], in which, it was held that once the High Court had placed a particular interpretation on the Rules, the benefit of that interpretation had to go to all those who qualified under the seniority-cum-merit rule. There was no point in waiting for each and every person to file a petition. From the analysis of all these judgments, the High Court concluded that it is clear that once the point is decided in favour of a group of persons, there is no further point in waiting for each and every person to file petition and pray for the same relief. The benefit of the judgment is equally applicable to similarly placed persons in order to do complete and substantial justice.

53. In *U. P. Jal Nigam and another* (supra) the Respondent – Corporation, after filing a return and placing the material on record had made out a case that if any reliefs were to be granted to the retired employees, who had approached the High Court after considerable delay and laches, the financial burden on the Nigam would be to the tune of Rs.17,80,43,108/- and that this liability will unnecessarily overburden the Nigam, which will be forced to

completely collapse. The Apex Court also observed that if the employees who had challenged their retirement in time, the Nigam could have taken appropriate steps to raise the funds so as to meet the liability but not by asserting their rights the Respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussion on the financial management of the Nigam. It is mainly in these circumstances, the Hon'ble Apex Court declined to grant any relief whatsoever to the employees.

54. In the present case, apart from the fact that no circumstances similar to that which prevail in *U. P. Jal Nigam* case, have been pointed out, we find that the issue of delay and laches when it comes to pay fixation or payment of monthly pension, was really not considered in *U. P. Jal Nigam* case. Besides, in *U. P. Jal Nigam* case, there was no evidence that the Nigam had itself applied initially the rulings in favour of certain additional employees, as the facts in the present case indicated. Since, the Petitioners have now restricted their claim to pensionary benefits and are not claiming any salary/wages for the period of two years, as was the position in *U. P. Jal Nigam* case, we find that the case of the Petitioners herein is closer to the rulings of the Hon'ble Apex Court in *Tarsem Singh* (supra),

Shiv Dass (supra), *Yogendra* (supra) and *Asger* (supra), in which, the petitions seeking the benefits of pay fixation or pensionary benefits were not rejected on the ground of delay and laches. The relief was moulded by restricting the same to about three years prior to the date of institution of petitions.

55. Even in *Arvind Kumar Srivastava* (supra), upon which reliance was placed by the Respondents, the Hon'ble Apex Court has held that normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by the Supreme Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently. However, this principle is subject to well recognized exceptions in the form of laches, delays as well as acquiescence. The fence-sitters are therefore not entitled to any relief in case of delay and laches. However, such exception will not apply in those cases where the judgment pronounced by the Court was judgment in rem with

intention to give benefit to all similarly situated persons, whether they approached the Court or not.

56. Besides, we find that the impact of delay, laches and acquiescence in matters of pay fixation or revision of pension was really not the issue in *Arvind Kumar Srivastava* case. The impact of delay, laches and acquiescence on issue of pay fixation or revision of pension was precisely the issue in the cases of *Tarsem Singh (supra)*, *Shiv Dass (supra)*, *Yogendra (supra)* and *Asger (supra)*. In *Arvind Kumar Srivastava (supra)* the Hon'ble Apex Court referred to the case of *Inder Pal Yadav Vs Union of India* [(1985) 2 SCC 648], in which, it was observed that there is another area where discrimination is likely to rear its ugly head. The workmen in the said case came from the lowest grade of railway service. The Hon'ble Apex Court therefore, took cognizance of the fact that they can ill afford to rush to Court. Their federations have hardly been of any assistance. They had to individually collect money and rush to the Court, which in case of some may be beyond their reach. Therefore, some of the retrenched workmen failed to knock at the doors of the Court of justice because these doors do not open unless huge expenses are incurred. Choice in such a situation, even without crystal gazing is between incurring expenses for a litigation with uncertain outcome and hunger from day-to-day. It is a Hobson's choice. Therefore, those

who could not come to the Court need not be at comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of the Apex Court.

57. In the present case, we are also concerned with the employees not holding any high position. We are also concerned with the retired employees. In the present case, it is not as if the Petitioners were totally indolent. The Petitioners had made representations from time to time. The State Government has itself taken cognizance of premature retirement which was forced upon several employees in disregard to provisions of Reorganisation Act. The State Government also offered some benefits in order to mitigate the unauthorized premature retirement. The State Government, in some matters on its own, extended pensionary benefits though not back wages etc. In this state of matters, we cannot really say that the Petitioners are not entitled to even the relief of revised pension on the principles laid down by the Hon'ble Apex Court in *Tarsem Singh (supra)*, *Shiv Dass (supra)*, *Yogendra (supra)* and *Asger (supra)*.

58. Further, we are of the opinion that there has to be proportionality in the action of the State Government. The delay and laches urged by the State Government is possibly sufficient to

deny to the Petitioners in the present case not only the relief of any back wages but also, arrears of any pensionary benefits. However, to say that forever the Petitioners are to be paid pension at rates lesser than the pension which is being paid to several other employees placed in similar circumstances, will amount to visiting the Petitioners with consequences which are totally disproportionate or in any case not at all commensurate to the so called delay and laches with which they have instituted the present petitions.

59. Again, in the present case, we need to remind ourselves that we are dealing with the issue of correct pensionary benefits payable to the Petitioners who were prematurely retired at the age of 58 years even though they were clearly entitled to continue in service until the age of 60 years. For the reasons already indicated by us, we are not entertaining the Petitioners' pleas regards the back wages or arrears of pension. In fact, the pleas of back wages have not been pressed by the Petitioners, who now contend that at least there be no continued discrimination in the matter of payment of pensionary benefits. The Constitution Bench of the Hon'ble Supreme Court in the case of ***D. S. Nakara and others Vs Union of India***²⁰ has already held that the pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer, nor an ex gratia payment. It is a payment for the past service rendered. It is a social

²⁰ (1983) 1 SCC 305

welfare measure rendering socio-economic justice to those who in the hey-day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch. Pension as a retirement benefit is in consonance with and furtherance of the goals of the Constitution. The most practical *raison d'etre* for pension is the inability to provide for oneself due to old age. It creates a vested right and is governed by the statutory rules such as the Central Civil Services (Pension) Rules which are enacted in exercise of power conferred by Articles 309 and 148(5) of the Constitution.

60. The Constitution Bench has also held that Socio-economic justice stems from the concept of social morality coupled with abhorrence for economic exploitation. And the advancing society converts in course of time moral or ethical code into enforceable legal formulations. Overemphasis on precedent furnishes an insurmountable road-block to the onward march towards the promised millennium. Further, since the advent of the Constitution, the State action must be directed towards attaining the goals set out in Part IV of the Constitution. While interpreting or examining the constitutional validity of legislative/administrative action, the touchstone of Directive Principles of State Policy in the light of the Preamble will provide a reliable yardstick to hold one way or the other. The discernible purpose thus underlying pension scheme or a

statute introducing the pension scheme must inform interpretative process and accordingly it should receive a liberal construction and the courts may not so interpret such statute as to render them inane. Therefore, the interpretation must be in consonance with these principles and the constitutional goal of setting up a socialist State (Preamble of the Constitution) and the assurance in the Directive Principles of State Policy especially of security in old age at least to those who have rendered useful service during their active years.

61. In order to appreciate and evaluate the impact of directing the State to desist discrimination in the matters of at least payment of pensionary benefits prospectively, we have taken into consideration the statements/charts tendered by the learned counsel for the Petitioners as well as the learned Additional Government Advocates in relation to cases of some of the sample Petitioners. For example, in so far as the Petitioners in Writ Petition No.439 of 2014 are concerned, if we go by the chart furnished by the learned Additional Government Advocate in respect of the Petitioner Laxman J. Chavan, the position is that presently i.e. on 01.12.2019, Laxman Chavan draws pension of Rs.17,911/-, DR of Rs.3045/- making the total pension amount of Rs.20,956/-. However, if the pension of Laximan Chavan is fixed on the basis that he had retired at the age of 60 years, then, he would draw pension of Rs.19,026/- and DR of

Rs.3235/- making it the total of Rs.22,261/-. Thus the difference of pension payable to Laximan Chavan, according to the statement/chart filed on record by the learned Additional Government Advocate Mr. Dhargalkar, comes to hardly Rs.1305/- per month.

62. Similarly, in so far as some of the Petitioners in Writ Petition No.453 of 2016 are concerned, the learned Additional Government Advocate has given a statement in respect of Mr. Neves A. Rebelo and Mr. Nagesh V. N. Karmali. In respect of Mr. Neves Rebelo, the difference in pension will come to Rs.4465/- per month, for the month of December, 2019 and in respect of Mr. Nagesh Karmali, the difference will be Rs.3142/- per month. In respect of some of the Petitioners in Writ Petition No.961 of 2015, the difference in pension in so far as Mr. M. L. Patil is concerned, it comes to Rs.15,408/-. Though, in terms of chart submitted by Ms. A. Desai, the difference will be only Rs.8,278/- per month.

63. We make it clear that we have not examined the charts/statements submitted by the Petitioners or the learned Additional Government Advocates in order to determine whether they are accurate or not. The only reason such charts/statements were submitted was to indicate the difference in pension, which might

payable, in case we were to grant the Petitioners limited relief in relation to their pension refixation.

64. According to us, upon evaluation of the aforesaid statements/charts, it cannot be said that any direction to desist from continuing with discrimination in a matter of pensionary benefits with prospective effect, will create any situation as was found in the case of *U. P. Jal Nigam* (*supra*). Besides, in deference to the submissions made by the learned Additional Government Advocates and upon examining the issue of proportionality *qua* the delay involved in the institution of the petitions, we are not inclined to award any arrears, even though, in the decisions relied upon by the Petitioners, the arrears for three years prior to the date of institution of the petitions were permitted. Though, we have held that these petitions cannot be considered as barred by the principle of delay and laches, nevertheless, since there is delay involved, the relief, will have to be moulded so that the positions of both the Petitioners as well as the Government are balanced to the extent possible. On one hand, we have held that the action of the Government in prematurely retiring the Petitioners was illegal, null and void and therefore, on the basis of such void action, the Government, cannot, at least continue to practice hostile discrimination against the Petitioners particularly in matters of payment of pension. On the other hand, we find that

even the Petitioners did not institute these petitions with diligence. It is only upon consideration of both these aspects, we find that the Petitioners have made out a case for some relief in the matter of continued discrimination when it comes to payment of pensionary benefits. However, the Petitioners, cannot be granted benefit of any arrears as claimed by them. The moulding of relief in this manner will neither put any unreasonable strain on the resources of the State nor will it unduly affect the fundamental rights of the Petitioners to receive pension on non discriminatory basis. In forming this opinion, we have, as indicated earlier relied upon the decisions of the Hon'ble Apex Court in the case of *Tarsem Singh (supra)*, *Shiv Dass (supra)*, *Yogendra (supra)* and *Asger (supra)*, wherein a distinction is drawn between the cases involving fixation of pension or pay fixation and other matters, since, in the cases of fixation of pension or pay fixation the cause of action is deemed to accrue from month to month.

65. For all the aforesaid reasons and considerations, and in particular, by balancing the position of the State Government as well as the Petitioners, we dispose off all these petitions by making the following order :-

(a) We declare that the action of the State Government in requiring the Petitioners to retire at the age of 58

years or not permitting them to continue in their service upto the age of 60 years was illegal, null and void;

(b) However, notwithstanding the aforesaid declaration, none of the Petitioners will be entitled to any salary/back wages for the period of two extra years they would have got in service, mainly on the ground of delay with which most of the petitions were instituted;

(c) We however declare that the Petitioners will be entitled to the pension on the basis that they continued in service until they attain the age of 60 years;

(d) Notwithstanding the aforesaid declaration, the Petitioners will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January, 2020;

(e) We grant the Respondents three months time to work out the revised pension payable w.e.f. 1st January, 2020 and thereafter commence such payment;

(f) We clarify that though three months time is granted, the arrears regards the revised pension will have to be paid w.e.f. 1st January, 2020;

(g) In case, as a result of aforesaid benefit, any of the Petitioners are required to refund any benefits which they have already received, the Respondents will not insist upon the actual return/recovery. However, the State Government, will be at liberty to make suitable adjustment so that, any double benefits are not received by the Petitioners. In particular, we clarify that the Petitioners will not be entitled to the benefits of order dated 9th October, 2014, in addition to the benefits which we have now extended to the Petitioners;

(h) We clarify that except for direction of payment of revised pension on the basis that the Petitioners had continued in service upto the age of 60 years w.e.f. 1st January, 2020, we have not awarded the Petitioners any other financial benefits on the basis of declaration that they were entitled to continue in service until they attain the age of 60 years. Therefore, on the basis of such declaration the Petitioners, will not be entitled to raise any further financial claim except for claim of revised pension that too w.e.f. 1st January, 2020 only.

- (i) Rule in each of these petitions is disposed of in the aforesaid terms. There shall be no order as to costs.

M.S. Jawalkar, J.

M.S. Sonak, J.

ssm/at*