

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3436 OF 2020

1. Shivaji Kerba Sirsat,
Age-66 years, Occu-Pensioner,
R/o House No.27/1593, Shahu Nagar,
Jagde D.P.Road, Osmanabad,
Tq. and Dist. Osmanabad,
2. Dinkar Shankarrao Kulkarni,
Age-59 years, Occu-Teacher,
R/o Yenegur, Tq.Omarga,
Dist.Osmanabad,
3. Angad Kishanrao Jadhav,
Age-65 years, Occu-Pensioner,
R/o Turori, Tq.Omarga,
Dist.Osmanabad,
4. Chandrashekhar s/o Pandharinath Suryawanshi,
Age-65 years, Occu-Pensioner,
R/o Kaldeo Nimbala, Tq.Omarga,
Dist.Osmanabad.
5. Manakawati Baliram Kamble,
Age-52 years, Occu-Teacher,
R/o 130, Samta Nagar, Diggi Road,
Omarga, Tq.Omarga,
Dist.Osmanabad
6. Dayanand Gunderao Patil,
Age-47 years, Occu-Teacher,
R/oNarangwadi, Tq.Omarga,
Dist.Osmanabad,
7. Madhukar Govindrao Mamale,
Age-53 years, Occu-Teacher,
R/o 561, Ram Mandir Road,
Omarga, Tq. Omarga,

Dist.Osmanabad,

8. Hanmant Vithalrao Shinde,
Age-45 years, Occu-Teacher,
R/o Dalimb, Tq.Omarga,
Dist.Osmanabad,

9. Ankush Babarao Birajdar,
Age-68 years, Occu-Pensioner,
R/o Balsoor, Tq.Omarga,
Dist.Osmanabad

-- PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai - 400 032,

2. The State of Maharashtra,
Through its Principal Secretary,
Finance Department,
Mantralaya, Mumbai - 400 032,

3. The State of Maharashtra,
Through its Secretary,
Rural Development and
Water Conservation Department,
Mantralaya, Mumbai - 400 032,

4. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai - 400 032,

5. The Divisional Commissioner,
Aurangabad,

6. The Chief Executive Officer,
Zilla Parishad, Osmanabad,

7. The Education Officer,
Zilla Parishad, Osmanabad.

-- RESPONDENTS

Mr.Ganesh J.Kore, Advocate for the petitioners.
Mr.A.S.Reddy, Advocate for respondent No.6.
Mr.P.S.Patil, AGP for State.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : AUGUST 6, 2021

ORAL JUDGMENT : (Per Ravindra V.Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. This is yet another case, in a series of such cases that have come before us wherein the District/State/National Awardee Teachers (आदर्श शिक्षक पुरस्कार) are made to rush to this Court for seeking one additional increment, which they are entitled to in view of the G.R. dated 12/12/2000 issued by the State of Maharashtra. Hundreds of such cases have been dealt with by this Court and though the Law is crystallized, various Zilla Parishads appear to derive vicarious pleasure in denying such benefits thereby forcing such teachers to knock the doors of this Court for justice. In this process, they are subjected to mental agony as well as unnecessary legal expenses.

3. In this petition, there are 9 teachers before us. It is undisputed and actually conceded by the respondent Zilla Parishad that each of them is a District Awardee Teacher. The learned Advocate for the Zilla Parishad has taken specific instructions to State that the Government Resolution dated 12/12/2000 applies to these petitioners. However, it is contended that, by G.R. dated 04/09/2018, such benefits are withdrawn as Clause 12 of the GR dated 12/12/2000, by virtue of which such benefit was made available, has been deleted from the said GR.

4. The learned Advocate for the petitioners submits that there is no dispute that these petitioners have been granted the award prior to the introduction of the GR dated 04/09/2018. In similar circumstances, several awardee teachers have been granted such benefits until the GR dated 04/09/2018 was introduced.

5. Be that as it may, we are of the view that the said GR dated 04/09/2018 deleting clause 12 could only operate prospectively. Any change adverse to the service conditions or the rules applicable or even taking away benefits (of such nature) already granted to similarly placed teachers, could not be made applicable retrospectively, to deprive a select few. If the changes in service conditions are beneficial to the teachers, such beneficial change can be made applicable retrospectively. If the GR dated 04/09/2018 is to be made applicable with retrospective effect, all

those awardee teachers, who have received their benefits under the relevant GR will have to repay the amounts which they have earned pursuant to the grant of one increment. In this backdrop, the GR cannot be granted a retrospective effect as it creates a prejudicial circumstance against such teachers. We conclude that it will apply to only those cases wherein the Adarsh Purasskar is awarded on or after 04/09/2018.

6. In **Vice-Chancellor, M.D.University, Rohtak Vs. Jahan Singh [(2007)5 SCC 77]**, the Hon'ble Apex Court concluded, while considering the powers of the Executive Council of the University, that the Act does not confer any power on the said Council to make a regulation with retrospective effect. The purported regulations, thus, could not have been given retrospective effect or retroactive operation as it is now well settled that in absence of any provision contained in the legislative Act, a delegatee Executive Council cannot make a legislation with retrospective effect. No retrospective operation could also be given having regard to the fact that thereby the rights of other employees of the University could not have been take away. By referring to the judgment of the Hon'ble Apex Court in **State of UP Vs.Jogendra Singh [(1998) 1 SCC 449]**, the Hon'ble Apex Court further held in the case of Vice Chancellor (supra) that all Laws are prospective unless made retrospective either expressly or by necessary implication.

7. This Court has passed an order at the Nagpur Bench in Writ Petition Nos.6116/2014, 5430/2014 and 194/2014, on 16/12/2014. It was concluded that the GR dated 04/09/2014 referred to in the said proceedings would not operate retrospectively. This Court, at the Aurangabad Bench, has passed orders on 07/10/2019 in WP No.1954/2018 and on 25/01/2019 in WP No.8171/2019, concluding that GR dated 24/08/2017 at issue in the said proceedings, would not operate retrospectively.

8. In view of the above, this petition is allowed. These petitioners, who admittedly are the District Awardee Teachers prior to 04/09/2018, are eligible to the benefits under GR dated 12/12/2000, and shall be granted such benefits as expeditiously as possible and preferably within a period of 6 weeks from today.

9. Rule is made absolute in the above terms.

10. Since we have recorded that such petitioners have been made to spend on litigation and approach this Court for no fault on their part and 5 out of these 9 petitioners have already retired from service, we could have imposed costs of Rs.5,000/- to be paid by the Zilla Parishad to each of these petitioners. However, the learned Advocate for Z.P. Beed assures us that, now onwards, no such case would emerge as the Z.P. would strictly act in accordance with the law laid down by this Court. Hence, no order as to costs.

11. We direct the learned Registrar (Judicial) to place copies of this judgment before Respondent Nos. 1 to 4 for issuing necessary directions to all Zilla Parishads.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)