

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

144 WRIT PETITION NO.7960 OF 2021

**VIDYA VALJNATHAPPA GUJAR
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND OTHERS**

...
Advocate for Petitioner : Mr. Deshmukh Sachin S.
AGP for Respondent 1/State : Mr. S.G. Karlekar
Advocate for Respondent 2 : Mr. P.D. Suryawanshi
Advocate for Respondent 3 : Mr. Y.G. Birajdar
...

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 20/09/2021.

PER COURT :

. We have heard Mr. Deshmukh, learned advocate for the petitioner. Mr. Deshmukh, learned advocate submits that impugned communication dated 15.3.2021 is illegal in as much as the petitioner having been appointed in the year 2000 is governed by old pension scheme.

2. Mr. Suryawanshi, learned advocate for respondent No. 2 submits that the petitioner was brought on 100% grant in aid in the year 2013 and as such would be governed by DCP Scheme. The issue involved in no longer res-integra. The Full Bench of this

Court in the case of **Deshmukh Dilipkumar Bhagwan and Ors. Vs. State of Maharashtra and Ors.**, reported in 2019 (3) Mh.L.J. 903 has held thus :-

“37. Under these circumstances, we answer the Reference as under:-

Question No. 1:

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

Question No. 2 :

The employees who were appointed prior to 1.11.2005 in aided recognized primary, secondary schools as well as colleges of education which were receiving less than 100% grant-in-aid as on 1.11.2005 would be governed by the DCP scheme.

Question No. 3 :

Similar will be the situation of the employees who were appointed prior to 1.11.2005 in aided primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 1.11.2005 but which became 100% aided before 29.11.2010 would also be governed by the DCP scheme.”

3. As the petitioner was brought on 100% grant in aid after 1.11.2005, the petitioner would be governed by DCP Scheme.

4. If the deductions are made as per the old scheme, the refund of the same be given to the petitioner.

5. Writ petition is accordingly disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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