

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

WRIT PETITION NO.8273 OF 2020

**DILIP PANDIT YEWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioners : Shri D.R.Irale Patil
AGP for Respondent 1 : Shri P.S. Patil
...

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

DATE :- 04th August, 2021

Per Court :-

1. This Court had issued notice to the respondents on 16.12.2020. Respondent Nos.2 to 5 were served. As no appearance was entered, this Court issued notice for final disposal to these respondents on 24.02.2021. The said final hearing notices are also served. Yet, no appearance is entered on behalf of respondent Nos.2 to 5.

2. The cause of action put forth in this petition is squarely in connection with respondent Nos.2 to 5. Their assistance was necessary. Despite two notices of this Court having been served on them at Aurangabad, they have chosen not to assist this Court. We have been ignoring similar conducts of

similar respondents on several occasions. This time, we feel that it would be appropriate to take a strict view.

3. We are, therefore, directing that respondent Nos.2 to 5 shall have to deposit Rs.10,000/- (Rupees Ten Thousand) each from their salary accounts in this Court, on or before 31.08.2021, failing which, we would not hesitate to initiate contempt of court action against them, inasmuch as, we would direct the District Collector, Aurangabad to recover the said amount as arrears of the land revenue. We request the learned AGP representing respondent No.1 to communicate this order to respondent Nos.2 to 5 individually.

4. The petitioner has put forth prayer clause B as under :-

“B) The Hon’ble Court may be pleased to pass necessary order and quash and set aside the impugned order dated 29.08.2020 passed by Resp. No.4 and order dated 15.10.2020 to the extent of proposed recovery of Rs.2,68,203/- toward incremental benefits and direct the respondents to provide the pensionary benefits sanctioned under impugned order dated 15.10.2020 by Resp. No.5 within the stipulated time.”

5. By the first order of this Court dated 16.12.2020, this Court restrained the respondents from carrying out recovery

of the amount of Rs.2,68,203/- from the petitioner.

6. The petitioner is a recipient of “Adarsha Shikshak” award (Model Teacher Award). Under the scheme applicable, the petitioner was entitled to an advance increment. Thirty three teachers were recipients of such awards and were, therefore, beneficiaries of the advance increments. The petitioner has now superannuated on 30.06.2019. The impugned order initiating the recovery was issued on 29.08.2020 by respondent No.4 and a further order was passed on 15.10.2020.

7. Shri Patil, learned advocate for the petitioner, has placed before us the judgment delivered by this Court on 19.07.2016 in Writ Petition No.12037/2015 filed by Prakash Laxmanrao Sonawane and 32 others versus the same Zilla Parishad, Aurangabad. These 33 employees are identically placed with the petitioner. Even in their cases, they were held eligible for additional increments and subsequently, the Zilla Parishad, Aurangabad sought to recover the said amounts from them. By the said judgment dated 19.07.2016, this Court concluded that these teachers had not played any fraud on the Zilla Parishad, they were not instrumental in inflating their pay scales by addition of increments. We find that these petitioners had not

indulged in unjustful enrichment.

8. This Court at the Nagpur Bench had considered similar causes of action and had delivered the judgment dated 16.12.2014 in Writ Petition Nos.6116/2014 (Suresh Raghoba Bhowate vs. State of Maharashtra), 5430/2014 (Manisha Aniruddha Mahatme vs. State of Maharashtra) and 194/2014 (Dilip Vinayakrao Kalamkar vs. State of Maharashtra). Similar judgment was also delivered by this Court at Aurangabad in Writ Petition No.8171/2019 (Balasaheb Janhardhan Jaybhaye vs. State of Maharashtra) on 07.10.2019.

9. In all the above referred cases, the State and National Awardee teachers were beneficiaries of additional increments in view of their achievement and the concerned Zilla Parishads had sought to recover the said amount. Despite these judgments having been delivered, the Zilla Parishad, Aurangabad has still proceeded against the present petitioner knowing that this Court has taken a view in identical set of facts. This is a clear case of a litigant having been deliberately made to rush to the Court on account of injustice at the hands of the Zilla Parishad, Aurangabad.

10. We do not find that the petitioner had played any

role in being a beneficiary of advance increments pursuant to he being awarded “Adarsha Shikshak Puraskar”. He had not fixed his pay scale. He received whatever amount that was paid to him by the employer. We do not find any fraudulent act attributable to the petitioner.

11. In view of the above, this Writ Petition is allowed in terms of prayer clause “B”, reproduced above.

12. Since we have come to the conclusion that the petitioner has been unnecessarily dragged into litigation by the Zilla Parishad, Aurangabad though the judgment dated 19.07.2016 was delivered by this Court in an identical set of facts against the same Zilla Parishad, we are imposing costs of Rs.25,000/- (Rupees Twenty Five Thousand) on the Zilla Parishad, Aurangabad, which shall be paid to the petitioner on or before 30.09.2021.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)