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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.9543 OF 2021

Baban S.Chavan & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.4221 OF 2021

Manohar M. Gangurde & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.4222 OF 2021

Dipali K.Aher & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.4223 OF 2021

Bhagvat K Dhum & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.4224 OF 2021

Sopan B. Bhoir & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.4225 OF 2021

Radhesham L. Bhoye & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.9562 OF 2021

Ganesh M. Abarke & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION (STAMP) NO.9569 OF 2021

Sanjay C. Tambe & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO.2435 OF 2021

Hemant K. Nikam & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

AND
WRIT PETITION NO.2434 OF 2021

Balasaheb B. Sanap & Ors.	...Petitioners
V/s.	
State of Maharashtra & Ors.	...Respondents

Mr.Balaji S. Shinde for the Petitioners in all the above Writ Petitions.

Mr.N.C. Walimbe, AGP for the State – Respondent Nos.1 to 5 in WPST/9543/2021, WPST/9562/2021, WPST/9569/2021, WP/2435/2021 and for Respondent Nos. 1 to 3 in WPST/4221/2021 to WPST/4225/2021 and WP/2434/2021.

Mr.Vivek Rane, i/b. Mr.A.R.Kapadnis for the Respondent Nos. 6 to 10 in WPST/9543/2021, WP/2435/2021 and for the Respondent Nos.

4 to 7 in WPST/4221/2021, WPST/4223/2021, WPST/4224/2021 and for Respondent Nos. 4 to 8 in WPST/4222/2021, WPST/4225/2021 and for Respondent Nos. 6 to 9 in WPST/9562/2021 and for the Respondent Nos. 4 and 5 in WP/2434/2021.

**CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.
DATE : 14TH JULY, 2021.
(THROUGH VIDEO CONFERENCE)**

P.C. :-

1. Heard learned counsel for the parties. Learned counsel for the parties have addressed us in Writ Petition No.2435 of 2021 and submitted that the out come in this petition would apply to the rest of the petitions placed on board along with this writ petition. Statement is accepted.
2. By this writ petition the petitioners have prayed for an order and direction against the respondents not to revoke the benefits Ekstar (one step pay scale) under the G.R. dated 6th August, 2002 though the petitioners are entitled for time bound promotion and direct the respondents to pay the salaries of the petitioners as per Ekstar (one step pay scale) till the petitioners work in the Tribal / PESA area as per above GR. dated 6th Authorities, 2002 and for issuance of necessary orders in that regard.
3. It is the case of the petitioners that that for a period of 12 years, the Zilla Parishad had been paying all the petitioners as per one step pay scale under G.R. dated 6th August, 2002. However

subsequently the Zilla Parishad started misinterpreting the said G.R. dated 6th August, 2002 and started contending that after 12 years the petitioners shall be entitled to time bound promotion scheme and not the benefit of one step pay scale and started effecting recoveries from the salary of the petitioners. The petitioners accordingly filed the petitions *inter-alia* praying for setting aside the order dated 17th November, 2018 passed by the Zilla Parishad and *inter-alia* praying for refund of the amount recovered from the salary recovery of the petitioners by the impugned order.

4. We have heard the learned counsel for the parties. We have gone through various judgments delivered by this Court annexed to the writ petition directing the Zilla Parishad to consider the case of the petitioners and being satisfied that the petitioners having worked in the tribal / naxalite area and satisfy the criteria laid down in the G.R. dated 6th August, 2002, then the Zilla Parishad shall award the benefit of the one step pay scale / next higher promotional pay scale to the petitioners.

5. Learned counsel for the Zilla Parishad states that the Zilla Parishad has already recovered part of the amount from the salary of the petitioners on the basis of the said G.R. dated 6th August, 2002. Learned counsel for the Zilla Parishad does not dispute that the petitioners are still working in tribal area and were given benefit of

one step pay scale for more than 12 years.

6. At this stage, learned counsel for the Zilla Parishad states that Zilla Parishad would reconsider the decision of recovery of alleged excess amount from the salaries being paid to the petitioners after hearing the petitioners and would apply true and correct interpretation of the said G.R. dated 6th August, 2002. Statement is accepted.

7. The impugned action of recovery is accordingly withdrawn forthwith. The petitioners have agreed to appear before the Education Officer (Primary) on 2nd August, 2021 at 11.00 a.m. It is thus made clear that the petitioners would be allowed to appear through an advocate or an authorized representative before the Education Officer (Primary) Zilla Parishad. The Education Officer (Primary) Zilla Parishad to pass a fresh order after hearing the petitioners through their respective advocates or authorized representatives without being influenced by the order of recovering the amount taken till date which is set aside by this order and shall decide the matter in accordance with law by interpreting the said G.R. dated 6th August, 2002 in right perspective and after taking into consideration the judgments of various Courts referred to and relied upon by the petitioners in these writ petitions. The petitioners would be at liberty to file written arguments along with representation before

the Education Officer (Primary) Zilla Parishad within two weeks from today.

8. The Education Officer (Primary) Zilla Parishad shall decide the representation of the petitioners within six weeks from the date of first hearing. The order that would be passed by the Education Officer (Primary) Zilla Parishad shall be conveyed to the petitioners within two weeks from the date of passing such order. If the order that would be passed by the Education Officer (Primary) Zilla Parishad is adverse against the petitioners, no coercive steps would be taken against the petitioners for a period of four weeks from the date of communication of the order.

9. The Education Officer (Primary) Zilla Parishad in the meanwhile shall continue to pay salaries of the petitioners (one step pay scale) at the rate at which they were being paid prior to the date of recovery of amount.

10. The writ petitions are disposed of in the aforesaid terms.

11. If the date assigned to the Education Officer (Primary) Zilla Parishad is not convenient to him, an earlier convenient date shall be communicated to the petitioners within one week in advance before the date of hearing.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)