

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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PRANESH
NANDIWADEKAR

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WRIT PETITION NO.8823 OF 2021

Biradar Sharad Baburao & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Balaji S.Shinde for the petitioners.

Mrs.S.S. Bhende, AGP for the respondent nos.1 to 6-State.

**CORAM : R.D. DHANUKA AND
R.N.LADDHA, JJ.**

DATE : 21st December 2021

P.C.:-

. Rule. Learned AGP waives service for the respondent nos.1 to 6-State. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners seeks writ of mandamus against the respondent nos.4 to 6 to give/re-grant One-step pay scale (Ekstar) from respective dates of withdrawal and seeks further direction to pay the salaries and arrears of salaries of the petitioners as per Ekstar (One-step pay scale) from respective dates from withdrawal of Ekstar, after completion of 12 years till the petitioners works in Tribal/PESA area, as per Government Resolution dated 6th August 2002 and as per the judgment dated 14th July 2021 in Writ Petition (St.) No.9543 of 2021.

3. Learned counsel for the parties jointly state that the order passed by this Court in Writ Petition No.8820 of 2021 would apply to the facts of this case. Statement is accepted.

4. For the reasons recorded in the said writ petition No.8820 of 2021, the following order is passed:-

- (i) The impugned action of recovery initiated by the respondents is quashed and set aside.
- (ii) The petitioners have agreed to appear before the respondent no.4 on 29th December 2021 at 11.00 a.m.
- (iii) The respondent no.4 shall pass fresh order after hearing the petitioners through their respective advocates or an authorised representatives without being influenced by the order of recovery of the amount taken till date which is set aside by this order and shall decide the matter in accordance with law by interpreting the clause 3 (7) of the Government Resolution dated 6th August 2002 in right perspective and after taking into consideration the principles of law laid down in catena of the decisions.
- (iv) The petitioners would be at liberty to file written arguments along with the representation before the respondent no.4 within one week from today.
- (v) The respondent no.4 shall decide representation within six weeks from the date of first hearing.
- (vi) The order that would be passed by the respondent no.4 shall be conveyed to the petitioners within two weeks from the date of passing such order.
- (vii) If the order that would be passed by the respondent no.4 is adverse against the petitioners, no coercive steps shall be taken against the petitioners for a period of four weeks from the date of communication of the order.
- (viii) The respondent no.4 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.

- (ix) Writ petition is allowed in aforesaid terms. Rule is made absolute. Parties to act on the authenticated copy of this order. No order as to costs.

R.N.LADDHA, J

R.D. DHANUKA, J.