

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 576 OF 2021

1. Ramesh Gopalrao Kakad,
Age 60 yrs., Occ. : Retired Teacher,
R/o. Sudhir Colony, Akola,
Tq. & Dist. Akola.
2. Satish Pundlikrao Dodke,
Age 61 yrs., Occ. : Retired Teacher,
R/o. State Bank Colony,
Dattatraya Apartment, Choti Umri,
Akola, Tq. & Dist. Akola.
3. Ramanlal Ratanlal Patel,
Age 60 yrs., Occ. : Retired Teacher,
R/o. Ugwa, Tq. & Dist. Akola.
4. Smt. Varsha Wd/o.Sanjay Hiware,
Aged about 46 yrs., Occ. : Household,
R/o. Jatharpeth, Near Khodke Hospital,
Kediya Plot, Akola, Tq. & Dist. Akola.
5. Smt. Ujjwala Wd/o.Uddhavrao Kadu,
Aged about 45 yrs., Occ. : Household,
R/o. Daryapur Road, Shrikrushna Nagar,
Akot, Tq. Akot, Dist. Akola.

.... **PETITIONER.**

// VERSUS //

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. Zilla Parishad Akola,
Through its Chief Executive Officer,
Tq. & Dist. Akola.

3. The Education Officer (Primary),
Zilla Parishad, Akola,
Tq. & Dist. Akola.

.... **RESPONDENTS.**

Shri Pravin S. Patil, Advocate for Petitioners.
Shri A.A.Madiwale, A.G.P. for Respondent No.1.
Shri Ujwal Deshpande, Advocate for Respondent No.3.

CORAM : **SUNIL B. SHUKRE AND**
 ANIL S. KILOR, JJ.

DATED : **AUGUST 11, 2021**

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. This petition has been filed by the Assistant Teachers and legal heirs of two deceased Assistant Teachers with the grievance that after retirement or death of these teachers, recovery for alleged excess payment of the amount on account of Computer Allowance was made. The petitioner Nos.1, 2 and 3 have retired on reaching age of superannuation on 30/06/2019, 31/05/2018 and 30/06/2019,

respectively, while the husbands of petitioner Nos. 4 and 5 died while in service on 07/07/2018 and 06/07/2018, respectively.

4. The excess amount has been recovered from the gratuity amount payable to these employees either after their retirement or on death or just about 1 to 3 months prior to their retirement. Therefore, such recovery would not be permissible in view of the law laid down by the Apex Court in the case of *State of Punjab and others..vs..Rafiq Masih (White Washer) and others*, reported in **(2015)4 SCC 334**.

5. In view of above, we pass the following order:

- i) The petition is **allowed**.
- ii) The impugned order is hereby quashed and set aside.
- iii) The amount recovered from the gratuity payable to the petitioners shall be refunded to the petitioners in twelve equal monthly installments, starting from September 2021.

Rule accordingly. No costs.

(ANIL S. KILOR, J)

(SUNIL B. SHUKRE, J.)