

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

WRIT PETITION NO.3678 OF 2021

**RATAN RAGHOBHA RAJURKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
CIVIL APPLICATION NO.9960 OF 2021
IN WP/3678/2021**

**PRAKASH YADAV PADAGALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the petitioners : Shri Santosh S. Jadhavar and Shri
A.G. Kanade
AGP for Respondent 1/ State : Shri R.K. Lakhotiya
Advocate for Respondents 2 and 3 : Shri S.S. Tope
...

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

DATE :- 28th March, 2022

Per Court :-

1. By this Writ Petition, the petitioners have put forth
prayer clauses B and C as under :-

“B) *By issuing appropriate writ, directions or order
in the like nature the respondent No.2 and 3 be
directed to pay admissible retirement benefits
to the petitioners within stipulated period of*

one month with 12% interest from the date of retirement till its realization.

C) Pending hearing and final disposal of the writ petition the respondent No.2 and 3 may be directed to deposit amount of Rs.Two Crore in the Hon'ble Court, towards due amount payable to the petitioners."

2. This matter was heard for a considerable time and we have also perused the contents of the Civil Application. The learned advocate representing respondent Nos.2 and 3 tenders the compilation of documents (12 pages). Same are taken on record and collectively marked as "X-1" for identification.

3. It is mentioned in the communication to the learned advocate dated 28.03.2021, which is the first page of X-1, that the Government has sanctioned Rs.20.25 crores for the financial year 2021-2022, which would take care of the arrears of dues of these petitioners as well as several other objects, which have been brought to the notice of the Government. It is indicated from this communication that it would be in a short time that the amount would be credited to the account of respondent No.2/ Corporation and thereafter, the payments would be made to these petitioners. Major portion of the funds is for other purposes and schemes. The learned advocate further points out that certain

amounts have been credited into the accounts of these petitioners by communications dated 19.03.2022 and 23.03.2022 vide which, major portion of payments of these petitioners has been made.

4. We have perused our order dated 08.10.2021 passed on Civil Application No.9960/2021 wherein, respondent No.2/ Corporation has made the statement that the amount of gratuity and provident fund accumulations have been paid to these petitioners. Only amount outstanding is towards the leave encashment.

5. The learned advocate for the petitioners submits that though they have superannuated several years ago, they are not being paid their leave encashment. In a staggered manner, they have been paid their retiral benefits. Therefore, they prayed for interest at the rate of 12% per annum from the date leave encashment has become payable.

6. The learned advocate for the respondent/ Corporation submits that the Corporation is in grave financial difficulty. For implementing certain schemes or getting some projects completed, the Corporation has to pray to the Government for financial assistance. He, therefore, submits that

interest may not be granted.

7. The learned advocate for the petitioners submits that along with leave encashment, some employees have not yet received their gratuity and some of them have also not received medical reimbursement, etc.. Needless to state, respondent No.3 would calculate the outstanding dues as per its records.

8. We find that in cases where retiral benefits are not paid in time, this Court has been granting interest, considering the financial capacity of the respondent/ Corporation. We are of the view that legal dues of these retired employees need to be paid forthwith and at the same time, rigours suffered by them on account of the delay need to be softened by granting 6% interest.

9. In view of the above, this Writ Petition is disposed off with the following directions :-

(a) We direct the Principal Secretaries of the Finance Department, the Planning Department and the Social Justice & Special Assistant Department of the State of Maharashtra, to ensure that the amount of Rs.20.25 crores, as has been sanctioned, shall be deposited with respondent No.3/ Maharashtra State Cooperative Housing Finance Corporation Limited, Mumbai, on or before 21.04.2022.

(b) Upon receipt of the amount, respondent No.3 shall calculate unpaid amounts towards leave encashment along with interest at the rate of 6% per annum from the date the amount became payable and deposit the said amounts in the accounts of the petitioners, on or before 05.05.2022.

(c) Respondent No.3 would also calculate and pay the remainder outstanding dues of the petitioners, as per its records.

10. Considering the above order, the Civil Application would not survive and stands disposed off.

kps

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)