

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO.12054 OF 2022

GAFOOR CHANDULAL SHAIKH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

Mr.S.B.Bhosale, Advocate for the petitioners.
Mr.S.K.Tambe, AGP for the respondent/State.
Mr.S.B.Ghute, Advocate for respondent Nos. 3 and 4.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : DECEMBER 01, 2022

PER COURT :

1. The petitioners have put forth prayer clauses 'C' and 'D' as under :-

“(C) By issuing writ of mandamus or any other appropriate writ, order or directions in like nature, the Respondent No.3 may kindly be directed to start giving the benefits of advance admissible increments in favour of the petitioners granted considering their eligibility as District Awardee Teachers and stopped without assigning any reasons and without following the principles of natural justice with immediate effect.

(D) By issue of writ of mandamus or any other appropriate writ, order or directions in the like nature, the respondent No.3 may kindly be directed to repay the amount of recovery already made behind the back of the petitioners without assigning any reasons from the monthly salaries, the arrears of 6th Pay Commission in

some cases and directing from the pensionary benefits of some petitioners contrary to the provisions of Government Resolutions issued by the State Government and contrary to the law laid down by the Hon'ble Apex Court in the case of State of Punjab and others Vs. Rafiq Masih (White Washer) and others reported in (2015) 4 SCC 334 with immediate effect."

2. All the parties are served in this matter.
3. Heard. Perused the writ petition paper book with the assistance of the learned advocates.
4. The claims put forth by the petitioners are as regards a right to seek additional increment on the ground that they are the District Awardee Teachers. Since the grievance is that the circular dated 12.12.2000 issued by the State Government of Maharashtra for granting such teachers one additional increment as a reward for being scholarly teachers, has not been followed, the petitioners are before this Court.
5. A Co-ordinate Bench of this Court has delivered an order on 24.09.2019 in Writ Petition No.11700 of 2019, filed by Vishnu Sahebrao Khandagale and others Vs. The State of Maharashtra and others with a connected petition, based on an earlier decision of this

Court dated 25.01.2019 in Writ Petition No.1954 of 2018.

6. Since it is undisputed that the petitioners are identically placed with the petitioners in Writ Petition No.11700 and 11798, of 2019, we do not find any reason to arrive at a decision contrary to the view taken by the co-ordinate Bench of this Court. For the sake of clarity, it would be apposite to reproduce paragraph Nos.4 to 10 of the order dated 24.09.2019 hereunder :-

"4. Learned counsel for petitioners submits that all the petitioners are the District Awardee teacher prior to 04/09/2018.

5. For the first time additional increment was given to the District awardee teachers under Government Resolution dated 12/12/2000. Pursuant thereto, additional increments as per the said Government Resolution were given.

6. There are other categories of awardee teachers such as State awardee teachers, national awardee teachers and the award being given for excellent/outstanding work. In the present case, we are concerned only with the District awardee teachers.

7. Upon perusal of various Government Resolutions placed on record, it does not appear that prior to the Government Resolution dated 04/09/2018, there was any Government Resolution taking away benefit of the additional increment given to District awardee teachers. Of course, now, no District awardee teacher would be

entitled for the benefit in view of the Government Resolution dated 04/09/2018. However, Government Resolution dated 04/09/2018 can not be given retrospective effect.

8. Government Resolution relied by the learned counsel for Zilla Parishad viz. Government Resolution dated 27/02/2009 is general in nature. It only states that the committee formed by the Government has made recommendation and the same is to be accepted with certain modifications. Under the Government Resolution dated 24/08/2017, Government has taken decision that the benefit of advance increment would not be available to those who were granted certificate of excellent work. It is under the Government Resolution dated 04/09/2018 now the benefit of additional increment to the District awardee teacher can not be given.

9. However, all those who were granted certificate of District awardee teacher prior to 04/09/2018 can not be denied the said benefit of additional increment.

10. In light of the above, we pass the following order.

ORDER

The respondent/Zilla Parishad after confirming themselves of the petitioners being District awardee teachers and awarded certificate prior to 04/09/2018, shall consider the case of the petitioners for additional increment as is laid down under the Government Resolution dated 12/12/2000. The same shall be considered on its own merits expeditiously preferably within a

period of six months."

7. In view of the above, this petition is disposed off with similar directions as under:-

- (a) The respondent - Zilla Parishad, after confirming that the petitioners are the District Awardee Teachers and are awarded such certificates prior to 04.09.2018, shall consider the case of the petitioners for additional increment as is laid down under the Government Resolution dated 12.12.2000.
- (b) The same shall be considered on its own merits, expeditiously and preferably within a period of six (6) months.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)