

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

8 WRIT PETITION NO.5291 OF 2021
WITH
CIVIL APPLICATION NO.14010 OF 2021
IN WP/5291/2021

KADUBA ASRAJI DOKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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9 WRIT PETITION NO.5629 OF 2021
WITH
CIVIL APPLICATION NO.14011 OF 2021
IN WP/5629/2021

AKHTAR ALI MOHAMAD ALI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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10 WRIT PETITION NO.5300 OF 2021
WITH
CIVIL APPLICATION NO.14014 OF 2021
IN WP/5300/2021

SANGITA SUNIL BOTHARA AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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11 WRIT PETITION NO.5356 OF 2021
WITH
CIVIL APPLICATION NO.14059 OF 2021
IN WP/5356/2021

BABASAHEB EKNATH THETE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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12 WRIT PETITION NO.5307 OF 2021
WITH
CIVIL APPLICATION NO.14060 OF 2021
IN WP/5307/2021

SUMANBAI KADUBA MAGARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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13 WRIT PETITION NO.5299 OF 2021
WITH
CIVIL APPLICATION NO.14061 OF 2021
IN WP/5299/2021

RAJKUMAR RAMKRUSHNA BHARUKA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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14 WRIT PETITION NO.5672 OF 2021
WITH
CIVIL APPLICATION NO.14062 OF 2021
IN WP/5672/2021

RAJSHRI UDYOG THROUGH ITS PARTNERS ANAND
SUNDARRAO JOGDAND AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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Advocate for the petitioners/ applicants : Shri Ajit B. Gaikwad
(Patil)

AGP for the Respondents/State in Sr.Nos.8 and 11 : Shri
P.K.Lakhotiya

AGP for the Respondents/State in Sr.Nos.9 and 14 : Shri P.S.
Patil

AGP for the Respondents/State in Sr.Nos.10 and 13 : Mrs.M.A.
Deshpande

AGP for the Respondents/State in Sr.No.12 : Shri S. G. Sangle

Advocate for Respondents 3 and 4 in Sr.Nos.8, 9 and 14 and for
Respondent 4 in Sr.Nos.10 to 13 : Shri D.S. Manorkar

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

DATE :- 28th March, 2022

Per Court :-

1. In all these petitions, the petitioners are identically placed. Some of the identically situated claimants were before this Court in Writ Petition No.2885/2021 filed by Yasminbeghum Bakshulla Khan and others vs. The State of Maharashtra and other connected petitions. By order dated 17.02.2021, the writ petitions were disposed off with the following observations :-

“We have heard Mr. Deshmukh, the learned advocate for petitioners and Mr. Manorkar, the learned advocate for the National Highway Authority and the learned Assistant Government Pleader for respondents/State.

2. *The second award passed by the competent authority is quashed and set aside by this court in the writ jurisdiction. The learned counsel for petitioners submits that, the petitioners have not*

been paid the amount of compensation as per the award passed.

3. *Mr. Manorkar, the learned advocate for the national highway authority submits that, the respondent has assailed the award before the arbitrator and proceedings are pending.*
4. *No stay has been granted to the award. In that event the respondent shall deposit the amount as per the award before the competent authority. The same shall be deposited within a period of eight (08) weeks from today.*
5. *In the light of the above, the writ petitions are disposed of. No costs.”*

2. We are informed that in these cases, the petitioners seek parity in payment of compensation in terms of the first award dated 24.07.2017 under Section 3-G of the National Highways Act, 1956. The second award was passed by the competent authority on 11.08.2017 thereby, drastically reducing the rate at which the compensation amounts have been computed. In similar circumstances, the second award has been set aside by this Court vide order dated 06.03.2020 in Writ Petition No.15535/2019 filed by Kaduba Asraji Doke (present petitioners) vs. State of Maharashtra and others.

3. We are further informed that the competent authority under the National Highways Act has challenged the first award before the Arbitrator and these petitioners are arrayed as

respondents. The litigation is ongoing and the stage is for advancing final arguments, which would be followed by the order of the Arbitrator. It is conceded that the Arbitrator has not stayed the first award.

4. Since the petitioners in these petitions once again approached this Court in Writ Petition No.7975/2021 with connected matters filed by Gausiyabi Faiyaz Khan Patel and others vs. State of Maharashtra and others, this Court then passed the order on 10.08.2021 permitting the petitioners to withdraw 50% of the amounts deposited by the Highways Authority by filing an undertaking that in case, the arbitration award is passed in favour of the Highways Authority, the petitioners would be required to pay back the amount to the Highways Authority within one month.

5. In view of the above, these Writ Petitions are disposed off, akin to the order dated 17.02.2021 delivered in Writ Petition No.2885/2021, by directing the deposition of the entire award amounts with the competent authority within eight weeks from today.

6. In order to avoid a second round of litigation and save these litigating parties of further rigours of litigation, we

direct that these petitioners would be at liberty to withdraw 50% of the amount as would be deposited by the Highways Authority with the competent authority, by tendering individual undertakings duly identified by their advocates, declaring that if an adverse order is delivered by the Arbitrator, the excess amounts that may have been received by these petitioners, would be paid back within one month to the Highways Authority.

7. The aspect of interest is kept open and the litigating parties are at liberty to advance their contentions.

8. In view of the above, the pending Civil Applications would not survive and stand disposed off.

kps (S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)