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

WRIT PETITION NO. 7033 OF 2021

Rajendra Y. Ahirrao and Ors.

... Petitioners

V/s.

The State of Maharashtra and Ors.

... Respondents

Ms. Laxmi M. Jenkins i/b. Haresh G. Ganatra for the Petitioners

Mr. N.R. Bubna, for the Respondent Nos.3,4 and 5

Ms. P.J. Gavhnae, AGP for the Respondent – State

***CORAM : SUNIL B. SHUKRE &
G.A. SANAP, JJ.***

DATE : 15 MARCH 2022

P.C. :-

Nobody is present for the Petitioners. Mr. N.R. Bubna, learned Counsel is present for the Respondent Nos.3,4 and 5. The pleadings in the Petition are complete.

2. The Petitioners were employees, teaching and non-teaching, of Thane Zilla Parishad and as there was revision and extension of limits of Thane Municipal Corporation, the schools in

which the Petitioners were working fell within the limits of the Thane Municipal Corporation. Upon this development, it is seen from the paper-book of the Petition, the Petitioners were given an option to either join the Thane Municipal Corporation or continue to be with Zilla Parishad, Thane. The Petitioners opted to join the service of Thane Municipal Corporation. Once the Petitioners chose to join the service of Thane Municipal Corporation all the service conditions including pay scale applicable to the other employees of Thane Municipal Corporation also became applicable to the Petitioners. The Petitioners also gave an undertaking to this effect. This happened some time in the year 1999-2000.

3. Now, the Petitioners are claiming that they must be paid their salary as per the 5th and 6th Pay Commission recommendations. The Petitioners are also claiming that 7th Pay Commission recommendations should also be implemented and the benefits thereof be made available to the Petitioners.

4. Against the above referred factual background, the learned Counsel for the Respondent Nos.3,4 and 5 that is Thane Municipal Corporation has invited our attention to the G.R. dated 30th March 2005 issued by the Urban Development Department, whereby resolution of Thane Municipal Corporation bearing No.267 of 20th December 2000 has been approved. On going through the G.R. dated 30th March 2005, we find that by the

resolution adopted on 20th December 2000, the Thane Municipal Corporation has taken a decision to apply service conditions and pay scale of Thane Municipal Corporation instead of those prescribed under the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

5. According to the learned Counsel for the Thane Municipal Corporation, once the pay scale and service conditions of Thane Municipal Corporation, are made applicable to all the teaching and non-teaching employees of secondary schools run by Thane Municipal Corporation, and the Petitioners have also given a written undertaking, in acceptance of those service conditions and pay-scale there can be no grievance raised by the teaching and non-teaching employees of secondary schools of Thane Municipal Corporation, regarding non-payment of salary as per the recommendations of 5th and 6th Pay Commissions and that no claim can be raised by them for implementation of the recommendations of the 7th Pay Commission. He also submits that the Pay Commission recommendations even when accepted by the State Government do not become ipso facto applicable to Municipal Corporation like Thane Municipal Corporation and unless and until those recommendations are adopted by passing necessary resolution by the Thane Municipal Corporation, no employee of Thane Municipal Corporation can raise any claim for getting salary as per those recommendations.

6. At this stage, the learned Counsel for the Petitioners has appeared before the Court. We have heard her for some time.

7. Upon instructions, the learned Counsel for the Petitioners seeks leave of the Court to withdraw the Petition with liberty to make a representation to Respondent No.3 for applying higher pay scales as per the Pay Commission recommendations to the Petitioners/employees of Thane Municipal Corporation.

8. Leave with liberty as prayed for is granted. The Petitioners are at liberty to make representation to Respondent No.3 within a period of four weeks from the date of the order.

9. If any such representation is made, same shall be decided on its own merits by Respondent No.3 within a period of twelve weeks from the date of receipt of the representation. All questions are kept open. The Petition is disposed of as withdrawn with liberty as above. No costs.

G.A. SANAP, J.

SUNIL B. SHUKRE, J.

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