

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

WRIT PETITION NO. 2868 OF 2021

PETITIONER: Ramesh S/o Hirachand Nandurkar,
Aged about - 57 years, Occ. Service,
R/o Ward no.2, near post office, Dharni,
Tq. Dharni, Dist. Amravati.

V E R S U S

- RESPONDENTS :**
1. State of Maharashtra through its Secretary, Rural Development and Water Conservation Department, Mantralaya, Mumbai-32.
 2. State of Maharashtra through its Secretary, School Education and Sports Department, Mantralaya, Mumbai-32.
 3. Divisional Commissioner, Amravati Division Amravati, Tq. and Dist. Amravati.
 4. Zilla Parishad, Amravati through its Chief Executive Officer, Amravati, Tq. and Dist. Amravati.
 5. Education Officer (Primary), Zilla Parishad, Amravati, Tq. and Dist. Amravati.

Shri A. R. Deshpande, Advocate for petitioner.

Shri D. P. Thakare, Additional Government Pleader for respondent Nos.1 to 3.

Shri S. M. Bhangde, Advocate for respondent Nos.4 and 5.

**CORAM: SANDEEP K. SHINDE AND
MRS. VRUSHALI V. JOSHI, JJ.**

JUDGMENT RESERVED ON : 21/11/2022
JUDGMENT PRONOUNCED ON : 24/11/2022

JUDGMENT : (PER SANDEEP K. SHINDE, J.)

1. **Rule.** Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel appearing for the parties.
3. In terms of the Circular dated 12/12/2000, issued by the State of Maharashtra, the petitioner a District Awardee Teacher, was conferred with, one increment on 5th September, 2007 as an incentive, for his good performance. Whereafter, upon making 6th Pay Commission Recommendations, applicable, the benefit of increment was discontinued. The State justified the discontinuation, by relying on the Government Resolution dated 24/08/2017. The purport of said Government Resolution was examined by the Division Bench of this Court in Writ Petition No.625/2016, at the instance of one of the District Awardees Teacher. The Division Bench held and concluded that the said Government Resolution *ipso facto* does not suggest withdrawal of the benefit conferred on the District Awardee Teacher, in terms of the Circular dated 12/12/2000. In the fact situation, the State was directed to restore the benefits to the petitioner therein. Yet, in

batch of petitions, Writ Petition Nos.5419/2018, 2033/2018, 5420/2018, 5421/2018, 5858/2018, 5859/2018 and 6474/2018, similar issue was addressed wherein State justified the withdrawal of the benefit, in terms of the Government Resolution dated 04/09/2018. The State sought to contend that in terms of said Government Resolution Clause No.12 of the Circular dated 12/12/2000, by which additional increment was conferred since has been withdrawn, the petitioners therein were not entitled to seek restoration of one increment as incentive. The Division Bench, took a view that Government Resolution dated 04/09/2018 does not have retrospective effect nor could have given any retrospective effect and withdrawn benefit conferred on Awardees. The reliance was placed on the Judgment dated 25/01/2019 in Writ Petition No.1954/2018 passed by the Bench at Aurangabad. As such, concluded, that the Government Resolution dated 04/09/2018 cannot be interpreted to be issued with any retrospective effect. In Paragraph No.04, the Division Bench has held thus :-

"04. Upon consideration of the Government Resolution dated 04/09/2018 and also the Government Circular dated 12/12/2000, we see no reason to strike a different note in the matter. We are also of the opinion

that the Government Resolution dated 04/09/2018 cannot be interpreted to be issued with any retrospective effect. There is no clause either in the Government Resolution dated 04/09/2018, expressly stating that deletion of Clause 12 of Government Circular dated 12/12/2000 shall be with retrospective effect. After all, when it comes to withdrawal of a monetary benefit with retrospective effect, it must be done so in an express manner and possibly upon certain conditions being fulfilled. Such express terms are not to be found in Government Resolution dated 04/09/2018 and, therefore, we would reiterate this Government Resolution has no retrospective effect. So, we are of the view that all these petitioners are also entitled to have the benefit of the grant of advance increment in terms of the Government Circular dated 12/12/2000 from such dates, as would be applicable to them and determined to be so on merit of each of the individual matter by the Zilla Parishads."

(emphasis supplied)

4. In view of the above, we are inclined to allow this petition and it is allowed accordingly. In the result, the benefit of increment conferred on the petitioner on 5th September, 2007, in terms of Circular dated 12/12/2000 stands restored. In consequence, the respondents shall pay the arrears and consequential benefits, to the petitioner in accordance with the

Circular dated 12/12/2000 and in any case within four months from today.

5. Rule is made absolute in the above terms.

[MRS. VRUSHALI V. JOSHI, J.]

[SANDEEP K. SHINDE, J.]

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