

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

WRIT PETITION NO. 2398/2021

(STATE OF MAHARASHTRA & ANOTHER **VERSUS** GANESH NIRANJAN KAMBLE & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri D.P. Thakare, Additional Government Pleader for the petitioners.

Shri R.V. Shiralkar, counsel for the respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : SEPTEMBER 19, 2022.

Considering the nature of challenge as raised, the writ petition is taken up for hearing by issuing **RULE** and making it returnable forthwith.

2. The respondents herein had approached the Maharashtra Administrative Tribunal with the prayer that they be held entitled to special allowance for having worked in naxal affected and tribal areas of Gadchiroli District from 01.01.2010 till the time they discharged duties in that area. The Tribunal by an order dated 24.02.2020 directed the State Government to grant benefits to the respondents therein in terms of Circular dated 26.10.2016. The original application was kept after three months for further adjudication. This interim order is the subject matter of challenge in the present writ petition.

3. According to the learned Additional Government Pleader for the petitioners the relief granted is in the nature of final relief without adjudicating the original application. He therefore submits that while issuing notice the effect and operation of the interim order came to be stayed. According to him the Tribunal was not justified in passing an interim order which was in the nature of granting final relief.

4. The learned counsel for the respondents supported the impugned order and submitted that various similarly situated employees had been granted such benefit and the Tribunal rightly extended the same to the respondents.

5. It is seen from the impugned order that by an interim direction the State Government has been directed to comply with the Circular dated 26.10.2016 as well as the Government Resolution dated 03.11.2009. The proceedings are still pending before the Tribunal and considering the relief sought in the original application, it is clear that the interim relief is in the nature of final relief. For that reason, we are inclined to direct the Tribunal to finally decide Original Application No.744 of 2019 on merits. It is noted that the interim direction dated 24.02.2020 had been stayed while issuing notice in the writ petition.

6. Hence for aforesaid reasons, the following order is passed:-

- I) The interim order dated 24.02.2020 shall remain stayed till the Original Application No.744 of 2019 is decided. The Tribunal shall finally decide Original Application No.744 of 2019 on its own merits. It is clarified that this Court has not expressed any opinion on merits of the matter and all contentions raised by both the sides are open to be raised before the Tribunal.
 - II) Since the proceedings are of the year 2019 the same shall be decided expeditiously in accordance with law.
 - III) The parties are at liberty to place on record additional pleadings in support of their contentions.
7. The writ petition is disposed of in aforesaid terms. Rule accordingly. No costs.

(URMILA JOSHI-PHALKE, J.)

(A. S. CHANDURKAR, J.)

APTE