

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

WRIT PETITION NO. 4308 OF 2023

- 1] Rushikesh Bapurao Kawathe,
Age : 70 years, Occu. Retired,
R/o. Dalimb, Tq. Omerga,
District : Osmanabad.
- 2] Ananda Dnyandev Jadhav,
Age : 68 years, Occu. Retired,
R/o. Dalimb, Tq. Omerga,
Dist. Osmanabad.
- 3] Jaisingrao Ganpatrao Sawant,
Age : 75 years, Occu. Retired,
A/P R/o. Payapachi Wadi, Tq. Miraj,
Dist. Sangli.

...Petitioners

Versus

The State of Maharashtra and others

...Respondents

.....

Mr. B. B. Yenge h/f Mr. Ajay Shinde – Advocate for the petitioners
Mr. S. K. Tambe – AGP for respondent nos. 1 and 2
Mr. S.B. Musale h/f Mr. S.S. Thombre – Advocate for respdt. no.3

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**CORAM : RAVINDRA V. GHUGE
AND**

SANJAY A. DESHMUKH, JJ.

DATED : 02nd MAY 2023

PER COURT : -

1. On 17th April, 2023, we had passed the following
order :-

- “1. Leave to add Dr. Babasaheb Ambedkar Marathwada University as Respondent No.3. Addition be carried out forthwith.
2. The learned AGP causes an appearance on behalf of Respondent Nos.1 and 2. Since Mr. Thombre, the learned Advocate is on the panel of the University, we requested him to take instructions.

3. Considering the delay of almost 14 years, the learned Advocate for the Petitioners submits that he would file the individual affidavits of the Petitioners' declaring that they would claim interest only for the period of 3 years preceding the date of the filing of the Writ Petition. He prays for time.
4. List this Petition on 26th April, 2023 in the "passing orders" category."

2. The learned advocate for the petitioners points out that the petitioner has entered an affidavit dated 28th April, 2023 on behalf of himself as well as petitioners no. 2 and 3. A statement to this effect is made in paragraph no. 2 of the affidavit. All the three petitioners, who are senior citizens and have retired almost 10 to 15 years ago, submit that they would not claim any interest beyond 3 years from the date of the filing of the petition.

3. We have considered the submissions of the learned counsel for the respective sides.

4. There is no dispute as regards the entitlement of these petitioners in the light of the circulars dated 03rd August, 2012 and 06th August, 2012, more so in the light of the orders of this Court dated 08th August, 2012 in Contempt Petition No. 518 of 2011 delivered at Aurangabad and 13th August, 2013 in Writ Petition No. 1106 of 2013 delivered at the Principal Seat. An SLP bearing No. 8399-8400/2012, challenging the order dated 22nd August, 2012 passed by this Court, was dismissed by the Hon'ble Supreme Court by order dated 09th May, 2012.

5. The learned AGP submits that, insofar as the law is concerned, the petitioners would have a right. Nevertheless, the issue is, as to whether the petitioners can be allowed to take advantage of the delay caused by themselves. He, therefore, prays that no interest be granted.

6. Taking into account the orders passed, as are referred to herein above and the circulars issued by the Government, there is no dispute that the claim put forth by these petitioners in these petitions has a legal foundation. When the Government had issued circulars with regard to the identically situated persons, the concerned authority should have taken into account identical cases all over the State and should have passed appropriate orders, rather than compelling the litigants to approach the court as like the three petitioners in this petition.

7. In view of the above peculiar facts and circumstances and as the petitioners have tendered an affidavit declaring that they would restrict the claim for interest on the deducted amounts only for a period of three years prior to the filing of this petition, we deem it appropriate to consider this petition favourably.

8. **This petition is partly allowed.** The orders dated 10th March, 2008 and 18th March, 2010 pursuant to which recovery of

the increments already paid to the petitioners has been carried out, are quashed and set aside.

9. The deducted amounts shall be quantified by the concerned authority, along with interest @ 12% p.a. for the period of only three (3) years preceding the date of filing of this petition and the said amounts shall be paid to them within 120 days from today, in the light of the orders dated 22nd August, 2011 passed in Writ Petition No. 9054 of 2010 at Aurangabad and 28th June, 2017 passed in Writ Petition No. 10526 of 2014 at the Principal Seat.

[SANJAY A. DESHMUKH]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE