

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

**REVIEW APPLICATION NO.252 OF 2023**

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| <ol style="list-style-type: none"> <li>1. Sainath S/o Vitthalrao Kavar</li> <li>2. Kautik S/o Deochand Dhongade</li> <li>3. Shivaji S/o Hari Nawale</li> <li>4. Smt. Swati Prakash Sonwane</li> <li>5. Smt. Anjali Ashokrao Naldurgkar</li> <li>6. Eknath S/o Nathu Chaudhari</li> <li>7. Sunil S/o Karbhari Pagar</li> <li>8. Shivaji S/o Raosaheb Erande</li> <li>9. Sunil S/o Maganrao Shinde</li> </ol> | <p>... <b>APPLICANTS</b></p> |
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**VERSUS**

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| <ol style="list-style-type: none"> <li>1. The State of Maharashtra,<br/>through its Secretary, Rural Development<br/>&amp; Water Conservation Department,<br/>Mantralaya, Mumbai - 400 032.</li> <li>2. The State of Maharashtra,<br/>through its Secretary<br/>Finance Department<br/>Mantralaya, Mumbai – 400032</li> <li>3. The State of Maharashtra<br/>through its Secretary,<br/>General Administration Department<br/>Mantralaya, Mumbai – 400 032</li> <li>4. The Chief Executive Officer,<br/>Zilla Parishad, Aurangabad<br/>Tq. &amp; Dist. Aurangabad</li> <li>5. The State of Maharashtra<br/>through its Principal Secretary<br/>School Education and Sports Department<br/>Mantralaya Mumbai.</li> <li>6. The Divisional Commissioner,<br/>Aurangabad, Tq. and Dist. Aurangabad</li> <li>7. The Education Officer (Primary)<br/>Zilla Parishad, Aurangabad<br/>Tq. &amp; Dist. Aurangabad.</li> </ol> | <p>... <b>RESPONDENTS</b></p> |
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Advocate for petitioners : Mr. Mathpati Shivkumar K

AGP for Respondent- State : Mr. S.B. Yawalkar

Advocate for respondent Nos.4 and 7 : Mr. A.A. Jagatkar

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**CORAM : MANGESH S. PATIL &  
SHAILESH P. BRAHME, JJ.**

**DATE : 18.10.2023**

**PER COURT :**

Heard the learned advocate for the petitioners as also the learned AGP. The petitioners are seeking review of the order passed by this Court in the Writ Petition No.15209/2019 dated 24.08.2022, whereby, for the reasons mentioned in the order the petitions were dismissed.

2. The petitioners were seeking to derive the benefit of the Government Policy particularly clause (12) of the Circular dated 12.12.2000, whereby, according to them, they were entitled to one additional increment being district awardee teachers. This benefit was subsequently withdrawn by the circular dated 04.09.2018.

3. We had indicated in the order under review that the petitioners were not actual recipients of the award prior to issuance of the circular dated 04.09.2018 and were not, therefore, entitled to derive the benefit of that policy. In the process we had also expressly observed that the petitioners were not entitled to derive the benefit of the decision in the matter of **Ananta Sakharam Jadhav and Ors. Vs. The State of Maharashtra and Ors; (Writ Petition No.13440/2017 decided on 09.06.2022)** for the reason that the petitioners therein had already

received the award prior to issuance of the circular dated 04.09.2018 which was not the case in the petitioners' matter.

4. The learned advocate for the petitioners submits that actual receipt of the award was inconsequential. The matter was under active consideration and merely because the process was not completed prior to 04.09.2018 they could not have been refused one additional increment. He would then submit that in number of subsequent decisions this Court has directed increments to be released to similarly placed individuals and even the petitioners could derive the benefit.

5. Learned AGP submits that no error or defect is being pointed out. Merely on pointing as to how the order under review was not sustainable, this Court cannot undertake a review. The reasons have been recorded and the petitioners could have challenged the order by way of appeal.

6. It may be that subsequently some coordinate benches in similarly placed individuals, have granted reliefs. However, if the explanation to clause 2 of Rule I of Order 47 of the Code of Civil Procedure is read, a subsequent decision of the superior court cannot be a ground for undertaking a review. Here it is matter of a coordinate division benches taking a different view at a later point of time. Consequently, this cannot be a ground for undertaking a review.

7. The submission of the learned advocate that the order under review does not attempt to distinguish the decision in the matter of

**Ananta Sakharam Jadhav** (supra) is *ex facie* not sustainable in the light of the observations made in paragraph No.7. No formal defect or error apparent on the face of the record is being pointed out.

8. The review application is rejected.

( SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)