

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

904 WRIT PETITION NO.10153 OF 2022

SMT. MANGAL D/O RANGNATH BHADAGARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. J. S. Deshmukh.
AGP for Respondent No.1 : Mr. V. M. Kagne.
Advocate for Respondent Nos.2 to 4: Mr. Avinash D. Aghav.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 17th February, 2023.

Per Court:

1. On 25th January, 2023, we had passed the following order:-

“1. The issue raised is as regards alleged excess payment. The Zilla Parishad has already recovered an amount of Rs.3,16,496/- from petitioner no.1 and Rs.5,21,570/- from petitioner no.2.

2. The purported excess payment with reference to petitioner no.1 is as regards the payment made as per the pay scale from January–2000 to 31.05.2021, when she superannuated. Petitioner no.2 was paid such pay scale from 26.11.1997 till 31.08.2019, when she retired voluntarily. Neither of them were called upon to execute any undertaking. Neither of them were issued with a show cause notice.

3. Issue notice to the respondents, returnable on 09.02.2023. The learned AGP waives service of notice on behalf of respondent no.1 and the learned advocate waives service of notice on behalf of respondent nos.2, 3 & 4.

4. List this petition in the passing orders category since the issue before us appears to be squarely covered by the judgment of the Hon'ble Supreme Court in the matters of **Syed Abdul Qadir V/s. State of Bihar; 2009 (3) Supreme Court Cases 475** and **State of Punjab and others V/s. Rafiq Masif (White Washer) and others; 2014 (4) Supreme Court Cases 334.**"

2. The learned advocate representing the Zilla Parishad submits that he has received a communication from the District Health Officer, Zilla Parishad, Ahmednagar dated 7th February, 2023 by which the Zilla Parishad has noticed an error that was caused with regard to these two petitioners. Paragraph Nos.2 and 3 with regard to these two petitioners, indicate this position.

3. The learned advocate for the Zilla Parishad has tendered the copy of the said communication dated 7th February, 2023 to the Court and the same is taken on record and marked as 'X' for identification. The learned advocate further submits that this Court may grant 6 months time for the refund of the said amount to these two petitioners.

4. The learned advocate for the petitioners submits that the petitioners are praying for interest as the amounts were deducted in 2021. He, therefore, prays for 15% interest on the amount to be refunded.

5. In view of the above, this petition is partly allowed. The recovered amount of Rs.3,16,496/- from petitioner No.1 and Rs.5,21,570/- from petitioner No.2, shall be returned to these two petitioners by the Zilla Parishad, on or before 30th June, 2023 alongwith 5% interest with effect from the date of recovery until June, 2023.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

nga