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

WRIT PETITION NO.4881 OF 2022

1.	Rajaram Narayanrao Vithalkar, Aged about 68 years, occup,. Retired, R/o VHB Colony, Bajoriya Nagar, Godhni Road, Yavatmal.	**Petitioners**
2	Sanjay Dattatraya Deshpande, Aged about 62 years, Occup. Retired, R/o Plot No. 27, Tirthrup Niwas, Balaji Society, Yavatmal	
3	Swati Satish Dabhadkar, Aged about 59 yrs, Occup.Retired, R/o, Bajoriya Nagar, Yavatmal.	
4	Vijay Uttamsa Samdurkar, Aged about 64 years, Occup.Retired, R/o Shrikrupa Colony, Vitthalwadi Yavatmal.	
5	Moreshwar Balaji Dhone, Aged about 68 years, Occup.Retired, R/o 25, Shrikrishna Colony, Vitthalwadi, Yavatmal.	
6	Vitthal Dalaptrao Raut, Aged about 72 years, Occup.Retired, R/o.115, VHB Colony, Bajoriya Nagar, Yavatmal.	
7	Ashok Champatrao Lahe, Aged about 59 years,Occ.Retired, R/o. Sambhaji Nagar, Kinhi Road, Karanja (Lad) Dist.Washim.	

8 Suryakant Nanaji Kinkar, Aged about 60 years, Occ.Retired R/o Kamla Arogya Mandir, Sankatmochan Road, Yavatmal.

9 Shrawan Marotrao Sontakke, Aged about 61 years, Occ.Retired, R/o Sawatri Fule Society Waghapur, Yavatmal.

10 Bhanudas Onkarrao Pinjarkar, Aged about 58 years, Occ.Retired, R/o 28, Sai Sahawas, Borole, Nagar, Yavatmal.

-Vs.-

1. State of Maharashtra, through Secretary, department of Water Supply and Sanitation, 7th Floor, G.T.Hospital Building Complex, Lokmanya Tilak Marg, Mumbai. **Respondents**

2 Maharashtra Jivan Pradhikaran, Express Towers Nariman Point Mumbai, through its Member Secretary.

Ms. P.D.Meghe, counsel for the petitioners.
Ms.Kalyani Deshpande, A.G.P. for respondent-1
Mr.D.V.Mahajan, counsel for respondent-2.

CORAM: ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 15 MARCH, 2023

O R A L J U D G M E N T (Per : Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioners have superannuated from the Maharashtra Jivan Pradhikaran(MJP) on various dates.

4. The petitioners are aggrieved by the Government Resolution dated 03.03.2021, which according to the petitioners stays the Government Resolution dated 17.10.2019.

5. Petitioners contend that by virtue of the earlier Government Resolution dated 17.10.2019 the superannuated employees of the MJP were treated at par with the superannuated employees of the Government of Maharashtra inasmuch as the budgetary head under which the pension was released was the same for both and the superannuated employees of the MJP were covered by the Sevarth Pranali applicable to the employees of the Zilla Parishad. The learned counsel for the petitioners submits that

even to that extent the Government Resolution dated 17.10.2019 was not implemented.

6. In sum and substance, the grievance of the petitioners appears to be that if their pension is not paid or released through the treasury, the disbursement shall be unduly delayed. Mr.P.D.Meghe, learned counsel for the petitioner would submit that the effect of the Government Resolution dated 03.03.2021 is that the pension shall be released through the office of the MJP.

7. We have perused the affidavit in response filed on behalf of the State Government. We may extract the relevant portions of the affidavit which reads thus:

> "5. It is submitted that new budgetary provision was made for this purpose in the financial year 2017-18. Initially budgetary provision was made through budget head "20710103". But later it was realised that this budget head is meant only for pension expenditure of retired State Government Employees and employees of respondent no.2 are not government employees. Hence, there were technical issued involved for making pension expenditure of retired employees of respondent no.2 through above budget head. So as suggested by Finance Department, new budget head "2215A052" has been created vide

Government Resolution dated 07.09.2018 for providing Grant-in-Aid to respondent no.2 to meet its pension expenditure and government is providing regular fund to respondent no.2 for this purpose. The copy of Government Resolution dated 07.09.2018 is attached herewith and marked as Exhibit 'R-1'.

6. It is submitted that there is separate procedure to be followed in respect of pension expenditure through budget head "20710103". The said budget head is meant for pension expenditure of retired employees of State government. Said budget head does not include any autonomous body as MJP. As the employees of MJP falls under the autonomous body they are not considered as State Government employees. In order to overcome the difficulty and to provide benefit to the employees of MJP the State Government decided to accord them states of States Government employees and directed the respondent no.2 to send proposals to amend Maharashtra Jeevan Pradhikaran Act vide letter dated 28.07.2017, 18.09.2017 and 03.03.2021. In spite of direction of State Government the respondent no.2 MJP has not forwarded any proposal for amending Maharashtra Jeevan Pradhikaran Act. Therefore, State Government has initiated steps to amend Maharashtra Jeevan Pradhikaran Act. The copies of letters dated 28.07.2017, 18.09.2017 and 03.03.2021 are attached herewith and marked as 'Exhibit R-2 colly'.

7. At the same time, the department had decided to solve other technical issue required to make pension expenditure of retired employees of respondent no.2 through budget head "20710103" and accordingly Government Resolution dated 17.10.2019 was issued. Since pension is statutory liability of respondent no.2, all pension cases are being approved at MJP level. But it is necessary to approve all pension cases by the office of Accountant General, in

order to make pension expenditure through budget head "20710103". Hence, it was directed to MJP to get approved all its pension cases by the office of Accountant General. But MJP had faced some technical issues and requested to revise Government Resolution dated 17.10.2019 vide letter dated 26.02.2020. The copy of the letter dated 26.02.2020 is annexed herewith as Annexture R-3.

8. Taking into account the technical issues faced by MJP, the Finance Department and Directorate of Pay and Accounts suggested to continue to provide Gran-in-Aid to MJP through budget head "2215A052" instead of budget head "20710103". Accordingly the respondents have stayed procedure laid down by the Government Resolution dated 17.10.2019 by issuing Government Resolution dated 03.03.2021. As stated above the pension expenditure through budget head "20710103" and "Sevarth Pranali" are meant for State Government employees and not for the employees of the autonomous body i.e. Maharashtra Jeevan Pradhikaran. So pension expenditure of MJP cannot be made through budget head "20710103" and Sevarth Pranali Government has made alternative arrangement to provide Grant-in-Aid to MJP through budget head "2215A052". Accordingly MJP is getting regular fund from Government for pension expenditure".

8. It appears to us that there is no threat as such to the entitlement of the superannuated employees of the MJP to the pension. We are not inclined to delve deeper in the submission of Mr.P.D. Meghe, learned counsel for the petitioner that the employees of MJP have been treated as employees of the State

Government for all practical purposes. Such broad issue need not be touched in the present matter. All that is done by the finance department of the State Government is that new budgetary head “2215A052” is created under which the grant-in-aid is released by the government in favour of the MJP to meet the expenditure on pension. If the State Government has taken a policy decision to change the budgetary head under which the pension shall be paid to the superannuated employees of MJP, we do not see any reason to interfere in such administrative decisions particularly, since, there is no prejudice to the petitioners.

9. In the event the pension is unduly delayed, it is obvious that the petitioners shall have an appropriate remedy in the matter. In any event, the inclusion of the pensionary benefit payment under any particular head is no guarantee that the pension shall be paid on time. Irrespective of the budgetary head, it is expected that superannuated employees receive their pension on the appointed day or week of the month lest the very purpose of providing pension, with by now is held to be right protected by Article 300A of the Constitution of India, shall stand defeated. We hope and trust that by the change of the budgetary head the

superannuated employees of the MJP do not suffer from any hardship and that such employees shall continue to receive the pension timely and on the dates on which the pension is paid to the superannuated employees of the MJP.

10. Rule is discharged. No costs.

(MRS.VRUSHALI V. JOSHI, J) **(ROHIT B. DEO)**