

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

WRIT PETITION NO. 6592 OF 2019

Madhukar Vishwanath Yerane,
Aged about 47 years, Occ. Asstt. Teacher,
R/o C/o Zilla Parishad School, Chapati (Nimgaon),
Panchayat Samiti - Arjuni (More),
District – Gondia.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through its Secretary,
Rural Development and Water Conservation Department,
Mantralaya, Mumbai – 32.
2. The Zilla Parishad, Gondia,
through its Chief Executive Officer,
Gondia, Tal. & Dist. Gondia.
3. The Chief Audit and Finance Officer,
Zilla Parishad, Gondia

RESPONDENTS

Shri P.S. Kshirsagar, Advocate for the petitioner.
Shri S.M. Ghodeswar, Assistant Government Pleader for respondent No.1/
State.
Ms. Meghna Munshi, Advocate for respondent Nos. 2 and 3.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 2/2/2023

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioner who is serving as an Assistant Teacher with the Zilla Parishad, Gondia is aggrieved by the communication dated

1/6/2019 issued by the Accounts Officer by which it has been held that the petitioner is not entitled for the advance increments that came to be granted from 5/9/2008. Further direction has been issued to recover the payments made according to the order dated 5/9/2008.

3. After hearing the learned Counsel for the parties, it is not in dispute that in somewhat similar circumstances, another employee of the same Zilla Parishad who was also working as an Assistant Teacher had approached this Court in *Writ Petition No. 6630/2017 (Tilakchand Tejram Rahangdale Vs. State of Maharashtra & Ors.* decided on 19/1/2018) raising an objection to the recovery contemplated against the amount of additional increment received by him. By the said judgment, this Court after referring to the decision in the case of *State of Punjab and others Vs. Rafiq Masih (White Washer) and others [(2015) 4 SCC 334]* has held that such recovery was not permissible. The learned Counsel for the respondents do not dispute the applicability of the ratio of the said decision to the present case. Similarly, in *Writ Petition No. 625/2016 (Sharad Pawar and others Vs. The State of Maharashtra and others* decided on 17/11/2017), this Court has held that retrospective recovery of the amounts/ benefits granted earlier shall not be undertaken.

4. In view of aforesaid, for the reasons contained in *Tilakchand*

Tejram Rahangdale (supra), the impugned communication dated 1/6/2019 is quashed and set aside. It is directed that in terms of the Circular dated 12/12/2000, the petitioner would be entitled to receive the additional benefits as earlier.

5. Rule is made absolute in the aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

SUMIT