



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

922 WRIT PETITION NO. 4451 OF 2024

**MOMIN BUSHRA BEGUM ABDUL QADAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

AND

925 WRIT PETITION NO. 6345 OF 2024

**SHOBHA GOPALRAO SONKHEDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

AND

926 WRIT PETITION NO. 6394 OF 2024

**SHAKILA BANO MANZOOR AHMED
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

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Advocate for the Petitioner/s : Mrs. Ansari Asfia Nuzhat
Addl. / AGP for Respondents/State : S/Shri M.M. Nerlikar, S.J. Salgare &
Ms. Neha Kamble
Advocate for R/2 & 3 : Mr. S.P. Urgunde

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**

DATE : 15th July, 2024

PC. :-

1. In the first Petition, the order of recovery is impugned. The Petitioner has retired. Recovery is still not been made.

2. In the second and the third petitions, both the Petitioners have retired and recoveries have already been effected.
3. There is no dispute that these three cases are identical to **Writ Petition No.6763/2023 (Khan Almas Zohara V/s. State of Maharashtra & Ors.)** decided vide judgment dated 09.02.2024.
4. An undertaking was extracted from Shobha Gopalrao Sonkhede, by the Corporation, after her retirement. In catena of judgments, we have concluded that extracting an undertaking after retirement with the threat of holding back retirement dues, does not have any sanctity.
5. In view of the above and considering the judgment in **Khan Almas Zohara** (supra), for the same reasons, **these three Writ Petitions are allowed** in terms of prayer clause-B, C and D put-forth in the respective petitions which are as under:

WRIT PETITION NO.4451/2024

“B) To quash and set aside the order letter No. MCA/Education/2024/442 dated 3/4/2024 by Respondent no. 2 Deputy Commissioner, Municipal Corporation Aurangabad, by issuing any appropriate writ order or direction as the case may be.

C) It may be held that Petitioner is not liable for any recovery from her retirement benefits on both the counts of not passing Hindi Marathi

examination and MSCIT examination, by issuing any appropriate writ order or direction as the case may be.

D) To direct the respondents to release the retirement benefits and pension of the Petitioner forthwith, by issuing any appropriate writ order or direction as the case may be.”

WRIT PETITION NO. 6345/2024

“B) To quash and set aside the order letter No. MCA/Education/ 34/2022 dated 11.1.2022, passed by Respondent no. 2 Deputy Commissioner, Municipal Corporation Aurangabad, by issuing any appropriate writ order or direction as the case may be.

C) It may be held that Petitioner is not liable for any recovery from her retirement benefits on the count of late passing MSCIT examination, by issuing any appropriate writ order or direction as the case may be.

D) To direct the respondents to release the recovered amount of Rs. 403539/- with interest, to the Petitioner forthwith by issuing any appropriate writ order or direction as the case may be.”

WRIT PETITION NO. 6394/2024

“B) To quash and set aside the order letter No. MCA/Education/326/2022 dated 7/4/2022 by Respondent no. 2 Deputy Commissioner, Municipal Corporation Aurangabad, by issuing any appropriate writ order or direction as the case may be.

C) It may be held that Petitioner is not liable for any recovery from her retirement benefits on the count of late passing MSCIT examination, by issuing any appropriate writ order or direction as the case may be.

D) To direct the respondents to release the recovered amount of Rs. 255550/- with interest, to the Petitioner forthwith by issuing any appropriate writ order or direction as the case may be.”

6. Since no recovery has been made in the case of Momin Bushra Begum Abdul Qadar, no orders for repayment are required. In the case of Shobha Gopalrao Sonkhede and Shakila Bano Manzoor Ahmed, since recoveries have been made, the said amounts shall be repaid to the said Petitioners with interest @ 5% per annum, since these two Petitioners have approached this Court without delay and in similar circumstances, a judgment has been delivered by this Court dated 23.03.2023 in Writ Petition No.3320/2023 and connected matters (Shaikh Amir Shaikh Kadar & Ors. V/s. State of Maharashtra and Ors.). All the pending retiral benefits of these Petitioners shall be released within a period of 60 days.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]