



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

WRIT PETITION NO. 8296 OF 2006

**PRAKASH KESHAV DALAL
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

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Advocate for the Petitioner : Mr. P B Patil
AGP for Respondents: Mr. V.M. Kagne

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 11th NOVEMBER 2024

PER COURT :

- . Heard the learned Counsel for the petitioner and learned AGP.
2. The petitioner has impugned the order of direction to recover the arrears of recovery of the excess payment.
3. Learned AGP for contesting respondents conceded that by the decision of this Court passed in Writ Petition No.172/2001; Writ Petition No.4278/2001 and Writ Petition No.4858/2002, the issue involved in this petition is covered.
4. We adopt the reasoning mentioned in the said judgment dated 04.10.2006 and Writ Petition No.8317/2006 with Civil Application No.4561/2017 dated 21.08.2024 through which one of the Members of this bench was a party to the judgment. The Hon'ble Supreme

Court has dealt with the question involved in the petition in State of Punjab and others vs. Rafique Masih (White Washer) (2015) 4 SCC 334. In the above two petitions, the case of Rafique(supra) was referred. Considering the ratio laid down by this Court in the said judgment, there should be no reason to take a different view. The law is well-settled. Therefore, the petition deserves to be allowed.

6. The writ petition is allowed.
7. The impugned order is quashed and set aside.
8. Respondent no.5 is directed to refund the amount of Rs.51000/- which has been recovered under excess payment.
9. No order as to costs.
10. All civil applications stand disposed of.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb..