

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 17166 OF 2024

1. Rajendra Eknath Khirsagar
Age- about 58 years, Occu- retired,
Residing at post , Goradwadi
Tal- MalshirasDist- Solapur.
2. Raju Jagganath Ghadge
Age-about 59years ,Occu- retired,
Residing at post Velapur,
Tal- Malshiras,Dist- Solapur.
3. Vasant Kashinath Kakade
Age-about 65years ,Occu- retired,
Residing at post Mohol,
Tal- Malshiras Dist- Solapur.
4. Anand Ramchandra Kachare
Age-about 59 years, Occu- retired,
Residing at post Velapur,
Tal- Malshiras Dist- Solapur.
5. Abdulrahim Yashin Sayyad
Age- about 59 years, Occu- retired,
Residing at post Piliv,
Tal- Malshiras Dist- Solapur.
6. Ruksana Mahamud Mulani
Age-about 60 years, Occu- retired,
Residing at post Malshiras,
Tal- Malshiras Dist- Solapur.
7. Baidabai Eknath Chavan
Age-about 60 years, Occu- retired,
Residing at post Velapur,
Tal- Malshiras,Dist- Solapur.
8. Ramkrushna Shankar Gurav
Age-about 59 years, Occu- retired,
Residing at post Mahalung
Tal- Malshiras,Dist- Solapur.

9. Ramesh Bhimrao Waghmare
Age- about 59 years, Occu- retired,
Residing at post Vilapur,
Tal- Malshiras ,Dist- Solapur.
10. Mandadevi Sambhaji Talekar
Age-about 63 years, Occu- retired,
Residing at post Lawang,
Tal- MalshirasDist- Solapur.
11. Mohan Gangadhar Ingole
Age-about 59 years, Occu- retired,
Residing at post Akluj,
Tal- Malshiras, Dist- Solapur.
12. Dnynoba Khetri Maske
Age-about 59 years, Occu- retired,
Residing at post Akluj,
Tal- Malshiras, Dist- Solapur.
13. Jaggushing Kharagshing Rajput
Age- about 58 years, Occu- retired,
Residing at Piliv,
Tal- Malshiras Dist- Solapur.
14. Suresh Dashrath Gaikwad
Age-60years ,Occu- retired,
Residing at post Shindewadi
Tal- Malshiras,Dist- Solapur.
15. Vilas Hari Shinde
Age- about 58years ,Occu- retired,
Residing at Malinagar,
Tal- Malshiras Dist- Solapur.
16. Sunil Arjun Karale
Age-about years, Occu- retired,
Residing at Natepute Tal- Malshiras,
Dist- Solapur.
17. Rajendra Nivrutti Jadhav
Age- about 59 years, Occu- retired,
Residing at Maloli,
Tal- Malshiras Dist- Solapur.
18. Inshad Sardar Shaikh
Age- about 59 years, Occu- retired
Residing at post Yashwantnagar
Malshiras Tal- Sangola, Dist- Solapur.

19. Vimal Dattatray Dhope
Age-about 59 years, Occu- retired,
Residing at Sadashivnagar,
Tal- Malshiras, Dist- Solapur.
20. Pandhari Dnyanu Lengare
Age- about 59 years, Occu- retired,
Residing at post-Piliv,
Tal- Malshiras, Dist- Solapur.
21. Alka Balkrushna Khilare
Age-about 59 years, Occu- retired,
Residing at post Natepute,
Tal- Malshiras Dist- Solapur.
22. Sangita Shrikrushna Mhetre
Age- about 59 years, Occu- retired,
Residing at post Pune,
Tal- Pune, Dist- Pune.
23. Lata Madhusudan Kathwate
Age-about 60years ,Occu- retired,
Residing at post Velapur,
Tal- Malshiras, Dist- Solapur.
24. Babasaheb Ananda Patil
Age-about 52 years, Occu- retired,
Residing at post Ledve Chinchle, Mangalwedha
Tal- Malshiras,Dist- Solapur.
25. Nanasaheb Bhagwan Nakate
Age-about 62 yrs, Occu- retired,
Residing at post Akola Vasud, Tal- Sangola,
Dist- Solapur.
26. Bebinanda Dagadu Pawar
Age-60 yrs, Occu- Retired,
Residing at post Marawade,
Mangalwedha. Tal- Malshiras
Dist- Solapur.
27. Surekha Prakash Bagade
Age-60 yrs, Occu- retired,
Residing at post Borgaon
Tal- TasgaonDist- Sangli.

28. Vishnu Sadhu Bodake
Age-60 yrs, Occu- retired,
Residing at post Angar Mohol,
Tal- Malshiras, Dist- Solapur.
29. Mahadev Balbhim Chavan
Age-60yrs, Occu- retired
Residing at post Angar
Tal- Malshiras, Dist- Solapur.
30. Balkrushna Narayan Narkhedkar
Age-about 63yrs ,Occu- retired
Residing at post Mohol,
Tal- Malshiras, Dist- Solapur.
31. Rajendra Pandurang Musale
Age -about 63 years, Occu- Retired
Residing at post -Waphale
Tal- Malshiras, Dist- Solapur
32. Suryakant Somnath Dikole
Age-about 63yrs, Occu- retired,
Residing at post Angar Mohol, Tal- Malshiras,
Dist- Solapur.
33. Chandrakant Rama Karade
Age-63 yrs, Occu- retired
Residing at post- Yavli Mohol
Tal- Malshiras, Dist- Solapur.
34. Bhimrao Bhau Mane
Age- about 63yrs, Occu- retired
Residing at post-Dokewadi Mohol,
Tal- Malshiras Dist- Solapur.
35. Bharat Rajendra Hembade
Age- about 63yrs, Occu- retired
Residing at post Mangalwedha Tal- Malshiras
Dist- Solapur
36. Hanumant Narayan Chavan
Age- about 62yrs, Occu- retired
Residing at post Narkhed, Mohol
Dist- Solapur

37. Annasaheb Sadashiv Phalake
Age- about 59yrs, Occu- retired
Residing at post Ekaptpur, Tal- Sangola,
Dist- Solapur.
38. Dattatray Bhagwan Dhainje
Age- about 59yrs, Occu- retired
Residing at post Sangramnagar, Tal- Malshiras
Dist- Solapur
39. Ranjana Devidas Teke
Age- about 60yrs, Occu- retired
Residing at post Natepute, Tal- Malshiras,
Dist- Solapur.
40. Avinash Namdev Satpute
Age- about 59yrs, Occu- Retired
Residing at post- Piliv Tal Malshiras,
Dist- Solapur.
41. Sikandar Mahamud Mujawar
Age- about 59yrs, Occu- Retired
Residing at post -Piliv, Tal- Malshiras
Dist- Solapur.
42. Vishnu Jaywant Shinde
Age- about 63 yrs, Occu- retired
Residing at post Palsmanadal Tal- Malshiras
Dist- Solapur
43. Shrimant Kondiba Gund
Age- about 64yrs, Occu- retired
Residing at post-Akluj
Tal- Malshiras, Dist- Solapur
44. Parshuram Somnath Jadhav
Age- about 60yrs, Occu- retired,
Residing at post Khandobachiwadi Mohol
Tal- Malshiras, Dist- Solapur
45. Tukaram Revanshiddha Nigadi
Age – About 60 years, Occu- Retired,
Hulijanti Mangalwedha, Tal- Malshiras,
Dist- Solapur

46. Bhausahab Dattatray Kulkarni
Age- about 62yrs, Occu- retired
Residing at post Bembale Madha ,
Tal- Malshiras, Dist- Solapur
47. Bhagyashri Pradipkumar Uplekar
Age- about 62yrs, Occu- retired
Residing at post Sainagar Barshi,
Tal- Malshiras Dist- Solapur.
48. Pradipkumar Vasant Uplekar
Age- 59 Years, Occu- Retired
R/A Sainagar Barshi
Tal- Malshiras , District- Solapur
49. Krushna Hambirrao Ghavane
Age- Years, Occu- Retired
R/A Sainagar Barshi
Tal- Malshiras , District- Solapur
50. Hanif Abdulrahim Mulla
Age-60 Years, Occu- Retired
R/A Madha
Tal- Malshiras , District- Solapur
51. Arun Dnyandev Kondgar
Age-63 Years, Occu- Retired
R/A Akluj
Tal- Malshiras , District- Solapur
52. Sushma Maruti Yadav
Age-61 Years, Occu- Retired
R/A Paniv
Tal- Malshiras , District- Solapur
53. Latika Mohan Shelake
Age-61 Years, Occu- Retired
R/A Motewadi
Tal- Malshiras , District- Solapur
54. Mahadev Trimbak Navale
Age-63 Years, Occu- Retired
R/A Anangnagar
Tal- Malshiras , District- Solapur

55. Vidhya Mahadev Navale
Age-59 Years, Occu- Retired
R/A Malewadi
Tal- Malshiras , District- Solapur
56. Vilas Jyoti Magar
Age-59 Years, Occu- Retired
R/A Akluj Muli 3
Tal- Malshiras , District- Solapur
57. Sangita Raghunath Patole
Age-59 Years, Occu- Retired
R/A Borgaon Malewadi
Tal- Malshiras , District- Solapur
58. Vimal Govind Bhosale
Age-59 Years, Occu- Retired
R/A Anadnagar
Tal- Malshiras , District- Solapur
59. Vijay Bajrang Kumbhar
Age-60 Years, Occu- Retired
R/A Kuranwadi Angar
Tal- Malshiras , District- Solapur
60. Balbhim Sambhaji Konhere
Age-58 Years, Occu- Retired
R/A Jambhud
Tal- Malshiras , District- Solapur
61. Sushma Prakash Dalavi
Age-44 Years, Occu- Retired
R/A Palve Wasti
Tal- Malshiras , District- Solapur
62. Bapurao Khode
Age-44 Years, Occu- Retired
R/A Manewasti Kondbavi
Tal- Malshiras , District- Solapur
63. Kalyan Bajrang Naste
Age-65 Years, Occu- Retired
R/A Chandapuri
Tal- Malshiras , District- Solapur

64. Arun Govind Javale
Age-63 Years, Occu- Retired
R/A Marwade Muli
Tal- Malshiras , District- Solapur ...Petitioners
V/S
1. The State of Maharashtra
Through The Secretary,
Education Department Mantralaya
(Notice to be served on Government
Pleader, High Court, Appellate Side,
Mumbai.
 2. Deputy Director of Education
(Primary) Division Pune, Pune-1
 3. Chief Executive Officer
Zilla Parishad, Solapur, Dist- Solapur
 4. The Education Officer (primary)
Zilla Parishad, Solapur, Dist Solapur
 5. The Deputy Chief Accountant and Finance officer
Solapur, Zilla Parishad Solapur
Dist- Solapur. ...Respondents

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Mr.Satish Raut for the Petitioners.

Mr.V.M.Mali, AGP for the Respondent -State.

Mr.Anand Kulkarni for Respondent Nos. 3 and 4-Zilla Parishad.

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CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 27TH NOVEMBER, 2024

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*)

1. In this matter, the Petitioners claim to be identically placed.

The learned Advocate representing the Zilla Parishad, agrees.

2. Amongst these Petitioners, there are some widows who have filed the Petitions. All the original employees were working with the respective Zilla Parishads and superannuated from employment. All of them were subjected to recovery of amounts, purportedly for the reason that excess amounts were paid to them, under wrongful revised pay scales/erroneous revised pay scales on the basis of acquiring the certificate of MS-CIT etc. These pay scales were revised more than a decade ago.

3. The grievance of these Petitioners is that recoveries have been initiated against them, from their retiral benefits/pensionary benefits. In some cases, amounts have already been recovered. A chart showing the details of the Petitioners, their dates of superannuation, dates of impugned orders and amounts recovered from their retiral benefits/pensionary benefits, are as under:

Sr. No	Retired Teacher's Name	Amount Of Recovery (In Rupees)	Retired Date	Z.P. School	Date Of Impugned Order
1	Rajendra Eknath Kshirsagar	41967	31/05/2024	Vatpali	06/11/2024
2	Raju Jagganath Ghadge	45809	31/05/2023	Pisewadi, Velapur	09/12/2023
3	Vasant Kashinath Kakade	24078	31/05/2028	Sarole, Mohol	03/08/2018
4	Anand Ramchandra Kachare	61319	31/05/2024	Bondale	08/10/2024
5	Abdulrahim Yashin Sayyad	44041	31/05/2023	Garwad	09/07/2023
6	Ruksana Mahamud Mulani	49187	28/02/2023	Prandawade	10/03/2023

7	Baidabai Eknath Chavan	37264	31/05/2022	Dombasewas ti	01/09/2023
8	Ramkrushna Shankar Gurav	58978	31/05/2024	Mule No. 2 Akluj	06/10/2024
9	Ramesh Bhimrao Waghmare	183646	31/05/2024	Velapur (Mule)	30/07/2024
10	Mandadevi Sambhaji Talekar	56010	30/06/2019	Mule No. 3 Akluj	24/10/2019
11	Mohan Gangadhar Ingole	53092	31/08/2023	Mule No. 1 Akluj	05/10/2023
12	Dnynoba Khetri Maske	40580	31/05/2023	Wagholi	21/09/2023
13	Jaggushing Kharagshing Rajput	44041	31/05/2024	Madnewasti	06/11/2024
14	Suresh Dashrath Gaikwad	65920	31/05/2022	Shindewadi	22/11/2022
15	Vilas Hari Shinde	24504	31/05/2024	Ughdewadi	24/05/2024
16	Sunil Arjun Karale	54339	31/05/2023	Gursale	11/09/2023
17	Rajendra Nivrutti Jadhav	44041	31/05/2024	Velapur (Muli)	06/11/2024
18	Inshad Sardar Shaikh	51763	30/09/2024	Velapur (Mule)	08/11/2023
19	Vimal Dattatray Dhope	480441	30/03/2023	Sadashivnag ar	30/08/2023
20	Pandhari Dnyanu Lengare	19900	31/05/2023	Kachrewadi	09/05/2023
21	Alka Balkrushna Khilare	47606	31/03/2023	Kanys Natepute	13/04/2023
22	Sangita Shrikrushna Mhetre	53044	31/05/2023	Sadashivnag ar	07/11/2023
23	Lata Madhusudan Kathwate	51301	31/12/2022	Devkate Patilwasti	13/04/2023
24	Babasaheb Ananda Patil	96571	31/05/2020	Ledve Chinchale, Magalwedha	05/03/2021
25	Nanasaheb Bhagwan Nakate	97297	21/05/2017	Chopadi	25/09/2017
26	Bebinanda Dagadu Pawar	83942	28/02/2023	Kashegaon	01/09/2023
27	Surekha Prakash Bagade	14665	31/10/2017	Borgaon	04/12/2017
28	Vishnu Sadhu Bodake	46044	31/05/2022	Ambutal, Angar	21/05/2022
29	Mahadev Balbhim Chavan	47891	31/05/2022	Ambaycham ala	22/09/2022
30	Balkrushna Narayan Narkhedkar	51832	30/04/2019	Bitale, Mohol	27/05/2019
31	Rajendra Pandurang Musale	46970	31/05/2022	Ashthi	07/01/2022
32	Suryakant Somnath Dikole	46970	31/05/2022	Waphale	26/05/2022
33	Chandrakant Rama Karade	46970	31/05/2022	Shethphal	25/05/2022
34	Bhimrao Bhau Mane	47891	31/05/2022	Konheri	27/05/2022
35	Bharat Rajendra Hembade	57514	31/05/2022	Nandeshwer	16/07/2020
36	Hanumant Narayan Chavan	23174	31/05/2016	Pokhrapur	01/10/2018

37	Annasaheb Sadashiv Phalake	305030	31/05/2024	Purandawade	13/08/2024
38	Dattatray Bhagwan Dhainje	58978	31/05/2024	Dharmapuri	06/11/2024
39	Ranjana Devidas Teke	6783	31/05/2017	ZP School Natepute	19/05/2017
40	Avinash Namdev Satpute	45809	31/05/2024	Piliv	06/11/2024
41	Sikandar Mahamud Mujawar	43612	31/05/2023	Garwad	24/09/2023
42	Vishnu Jaywant Shinde	46707	31/05/2023	Patilwasti	27/09/2023
43	Shiramnt Kondiba Gund	6783	31/05/2024	Akluj	20/06/2017
44	Parshuram Somnath Jadhav	50604	31/05/2015	Tambole	04/02/2016
45	Tukaram Revanshiddha Nigadi	72597	31/05/2019	Huljanti	04/01/2020
46	Bhausahab Dattatray Kulkarni	25523	31/05/2017	Madha	14/07/2017
47	Bhagyashri Pradipkumar Uplekar	7284	31/05/2017	Barshi	26/05/2020
48	Pradipkumar Vasant Uplekar	41687	31/07/2018	Barshi	10/09/2018
49	Krushna Hambirrao Ghavane	49722	30/04/2019	Kurduwadi	14/05/2019
50	Hanif Abdulrahim Mulla	27110	30/05/2018	Madha	09/08/2018
51	Arun Dnyandev Kondgar	60124	31/05/2024	Akluj	06/10/2024
52	Sushma Maruti Yadav	46276	31/05/2023	Paniv	19/02/2024
53	Latika Mohan Shelake	76437	03/12/2022	Motewadi	21/09/2023
54	Mahadev Trimbak Navale	36413	30/11/2018	Anandnagar	07/01/2019
55	Vidhya Mahadev Navale	44441	31/05/2022	Malewadi	07/11/2023
56	Vilas Jyoti Magar	44041	31/05/2024	Akluj Muli 3	11/06/2024
57	Sangita Raghunath Patole	45809	31/05/2024	Borgaon, Malewadi	06/11/2024
58	Vimal Govind Bhosale	87907	01/04/2024	Anandnagar	21/05/2024
59	Vijay Bajrang Kumbhar	59401	31/05/2022	Kuranwadi, Angar	21/05/2022
60	Balbhim Sambhaji Konhere	44933	31/05/2024	Jambhud	06/11/2024
61	Ganesh Vitthal Ubale (late) Sushma Prakash Dalavi	34406	24/10/2021	Palve Wasti	01/04/2022
62	Jyoti Bapurao Khode	83933	08/05/2021	Manewasti Kondbavi	26/10/2021
63	Kalyan Bajrang Naste	7860	31/05/2022	Chandapuri	30/05/2017
64	Arun Govind Javale	58983	31/05/2019	Marawade Muli	03/01/2020

4. We have considered the strenuous submissions of the learned Advocates. It is, however, undisputed that none of these

Petitioners had played any fraud or were personally involved in wrongful revision of their pay scales or orchestrating wrongful revision by manipulating the record. There is no allegation of fraud or deceit against any of them. No undertaking was acquired from them as and when the revised pay scales become payable. In some cases, at the stroke of retirement, a condition was imposed that they should execute an undertaking and it is in these coercive circumstances, that undertakings were extracted from some of them.

5. The learned Advocate representing the Zilla Parishad as well as the learned A.G.P., submit that once an undertaking is executed, the case of the Petitioners would be covered by the law laid down by the Hon'ble Supreme Court in *High Court of Punjab and Haryana and others vs. Jagdev Singh, 2016 AIR (SCW) 3523*. Reliance is placed on the judgment delivered by this Court on 1st September, 2021, *in Writ Petition No. 13262 of 2018 filed by Ananda Vikram Baviskar Vs. State of Maharashtra and others*.

6. We have referred to the law laid down by the Hon'ble Supreme Court in *High Court of Punjab and Haryana and others vs. Jagdev Singh (supra)*. However, the record reveals that no undertaking was taken from these Petitioners when the pay scales were revised. The

undertakings from some of them were taken at the stroke of their retirement. An undertaking has to be taken from the candidate on the day the revised pay scale is made applicable to him and the payment commences. At the stroke of superannuation of the said employee, asking him to tender an undertaking, practically amounts to an afterthought on the part of the employer and a mode of compelling the candidate to execute an undertaking since they are apprehensive that their retiral benefits would not be released until such undertaking is executed. Such an undertaking will not have the same sanctity of an undertaking executed when the payment of revised pay scale had commenced. We, therefore, respectfully conclude that the view taken in *High Court of Punjab and Haryana and others vs. Jagdev Singh (supra)*, would not be applicable to the case of these Petitioners, more so, since the recovery is initiated after their superannuation.

7. Taking into account that these Petitioners were not involved in any mischief, fraud or deceit in orchestrating their wrongful pay revision, the law laid down by the Hon'ble Supreme Court in *Syed Abdul Qadir vs. State of Bihar and others, 2009 (3) SCC 475 and State of Punjab and other vs. Rafiq Masih (White Washer) etc. (2015) 4 SCC 334 = AIR 2015 SC 696*, would apply to these cases.

8. As such, **this Writ Petition is allowed.**

9. The impugned orders are quashed and set aside. The amounts due and payable to the Petitioners, as well as to the widows, as the case may be, after the superannuation of the said employees/ death of the employees, would be paid to these Petitioners/widows, within a period of 90 days along with admissible interest as per Rules, to be paid together.

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)