

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

WRIT PETITION NO. 735 OF 2023

Surekha W/o Ganesh Pidurkar

Vs.

Zilla Parishad, Chandrapur, through Chief Executive Officer, Chandrapur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Garima Jain, Advocate h/f Dr.R.S. Sirpurkar, Advocate for petitioner
Shri J.B. Kasat, Advocate for respondent Nos. 1 & 2

CORAM : AVINASH G. GHAROTE AND
SMT M.S. JAWALKAR, JJ.

DATE : 17.01.2024

Heard Ms Jain, learned Counsel holding for Ms. (Dr.) Renuka Sirpurkar, learned Counsel for the petitioner and Mr. Kasat, learned Counsel for the Respondent Nos. 1 and 2. None appears for the other respondents though served.

2. The petition questions the communications dated 13/01/2017 (Page 65) and 19/06/2018 (Page 52), by which recovery of Rs.3,34,106/- on account of excess payment made and Rs.77,021/- on account of loan availed by the deceased husband of the petitioner who was employed with the respondent No.1 as an Assistant Teacher (Senior Grade) and who passed away on 05/10/2017, has been directed.

3. Mr. Kasat, learned Counsel for the respondent Nos.1 and 2 does not dispute that the position is covered by the judgment of this Court in *Pandurang Sadashiv Shrirame*

and others vs. Zilla Parishad, Chandrapur & others (Writ Petition No. 3579/2019 decided 08/12/2021), which in turn relies upon the judgment of the Hon'ble Apex Court in *State of Punjab & others vs. Rafiq Masih & others, (2015) 4 SCC 334*, considering which, the deduction of Rs.3,34,106/-, as made in pursuance to the communications dated 13/01/2017 (Page 65) and 19/06/2018 (Page 52) insofar as it relates to the aforesaid amount, are hereby quashed and set aside and the amount of Rs.3,34,106/- be returned to the petitioner within a period of four weeks from today. Consequent to the aforesaid order, the retiral benefits shall be re-fixed by considering the position as indicated in this order and consequential benefits shall also be paid to the petitioner within a reasonable time.

4. The petition is **allowed** in the above terms. No costs. Pending Application(s), if any, stand(s) **disposed of**.

JUDGE

JUDGE