



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

WRIT PETITION NO.8502 OF 2024

Hasvi Rizwana D/o Mohammad Abdul Wahed
W/o Syed Zakir, Age-57 years,
Occupation:Assistant Teacher,
Resident of:Plot No.7, Opposite Masjid Hamzah,
Kat Kat Gate, Aurangabad-431 001.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary, Municipal
Corporations, Mantralaya,
Mumbai-400 032,
- 2) The Commissioner,
Municipal Corporation,
Aurangabad,
- 3) The Education Officer,
Municipal Corporation,
Aurangabad.

...RESPONDENTS

...
Ms. A.N. Ansari Advocate for Petitioner.
Mr. A.R. Kale, Additional G.P. for Respondent No.1.
Mr. S.P. Urgunde Advocate for Respondent Nos.2 and 3.
...

**CORAM: SMT. VIBHA KANKANWADI AND
AJIT B. KADETHANKAR, JJ.**

DATE : 3rd OCTOBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. The petitioner was appointed as assistant teacher primary, on 29th June 1998. She stood retired on 31st August 2024. However, she was served with the notice from the office on 22nd July 2024 i.e. just prior to her retirement, demanding recovery of Rs.2,44,405/- which is for the period 29th June 1998 to 7th August 2011. The ground that was stated is that she has not produced the Certificate that she has passed in Marathi Examination or has not produced any such document that during her schooling she had passed in Marathi subject at 10th Standard level. Learned Advocate for the petitioner takes us to the office order dated 18th January 2022, wherein taking into consideration the documents, exemption was granted to 325 employees of the Municipal Corporation, including the petitioner, from appearing in Marathi and Hindi language examination. It is then stated that by order dated 8th February 2024, abruptly respondent No.2 has modified the earlier order without hearing the petitioner and stated that the petitioner would be exempted from appearing the examination only in Hindi language and not in Marathi language. There was no undertaking taken from the petitioner and therefore, now the recovery is impermissible.

2. Respondent Nos. 2 and 3 relies on the affidavit of Mr. Bharat Haribhau Tingote, Education Officer, Chhatrapati Sambhajanagar Municipal Corporation, wherein he has quoted the rules and it is stated that the exemption to the employee from passing Marathi examination is, when such employee has passed the Secondary School Certificate Examination or equivalent examination with Marathi as a higher standard subject of 100 marks paper, prior to joining the services of the Corporation and therefore, the petitioner was not entitled to get the exemption. The order that has been passed on 8th February 2024 is correct and therefore, that amount that has been already given to the petitioner found to be in excess.

3. The first and foremost fact that is required to be considered is that by order dated 18th January 2022, the same authority i.e. Municipal Commissioner, Aurangabad had exempted the petitioner from appearing for Marathi as well as Hindi language examination. The petitioner's name stands at Serial No.269. Thereafter the pay fixation appears to have been done and the amounts have been paid. Now, abruptly, without hearing the petitioner the said order could not have been

modified by the successor by order dated 8th February 2024. When the Petition was filed, the petitioner was yet to retire, however, as on today she stood retired. Another fact is that the alleged recovery of the amount is stated to be for the period from 29th June 1998 to 7th August 2011. The exemption that was granted, was by way of order dated 18th January 2022. Even after taking into consideration this period also, respondent No.2 is not entitled to recover the said amount. Therefore, we hold that the impugned orders dated 8th February 2024 and 22nd July 2024, are erroneous and deserves to be quashed and set aside, to the extent of the petitioner and proceed to pass following order:-

ORDER

. The Writ Petition stands allowed in terms of Prayer Clause "B)" to the Writ Petition.

[AJIT B. KADETHANKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/OCT25