IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.10181 OF 2024

Ramesh Dagadu Pawar,
Age-59 years, Occupation:Pensioner,
Resident of Ambedkar Nagar,
CIDCO, N-7, House No.5/11,
Galli No.7, Jalgaon Road,
Chhatrapati Sambhajinagar
(Aurangabad)

...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

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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.

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

DATE : 3rd OCTOBER, 2025

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

1. The petitioner is a pensioner from whom respondent No.2 has recovered the excess payment that was allegedly made to him and therefore, he seeks quashment of the order issued by Chief Accounts and Finance Officer, Municipal Corporation, Aurangabad and to release of the recovered amount together with interest.

2. Learned Advocate for the petitioner submits that the petitioner came to be appointed as assistant teacher, primary on 5th July 1997. He was possessing required qualification for assistant teacher, primary i.e. S.S.C. D.Ed. He stood retired on 30th June 2023. After his retirement, impugned letter dated 26th June 2024, came to be issued by respondent No.2 for recovery of Rs.3,58,519/-. Till his retirement, no notice was served or no intimation was given to the petitioner that there is excess payment. However, undertaking was then taken from the petitioner on 30th August 2023, that he has no objection for the deduction of the said amount from his pensionary benefits as he had not passed MS-CIT Examination before the cut off date. It is stated that the petitioner submitted his certificate regarding

clearing the MS-CIT Examination in August 2021 when in fact he was supposed to produce it before 2007. The decision to recover the said amount is against the decision in ***State of Punjab and others vs. Rafiq Masih (White Washer) etc., (2015) 4 SCC 334*** and therefore, deserves to be set aside.

3. Learned Advocate for Respondent No.2 relies on the affidavit of Mr. Bharat Haribhau Tingote, Education Officer, Chhatrapati Sambhajinagar Municipal Corporation, wherein he relies on the undertaking that was given by the present petitioner. He submits that the Government of Maharashtra had taken a policy decision that the employees in Group-A, Group-B and Group-C working in State Government Service should acquire computer proficiency certificate within the prescribed period and it was also the decision that those employees who failed to submit MS-CIT Certificate, their pay/increment would be withheld. As per the Government Resolution dated 3rd July 2018, this decision was taken. Then by Government Resolution dated 26th November 2020, it is stated that it should have been interpreted that the extension that was granted for clearing examination was till 31st December 2007 only. It was necessary for the Government departments to stop the pay or increment of

those officers or employees who have not cleared the examination and not submitted MS-CIT Certificate before 31st December 2007 and therefore, power was granted to all the departments to recover the excess payment that has been made. When the undertaking has been given by the petitioner, he would fall within the law laid down in ***High Court of Punjab and Haryana and others vs. Jagdev Singh, (2016) 14 SCC 267***.

4. This Court in group of matters, in ***Shaikh Amir Shaikh Kadar vs. the State of Maharashtra, through its Secretary and others, Writ Petition No.3320 of 2023 with companion matters, decided on 23rd March 2023***, has given decision in respect of the employees who were working with Zilla Parishad who had not submitted the MS-CIT Certificate. It has been held that since no undertaking has been taken from those petitioners, the decision in ***High Court of Punjab and Haryana and others vs. Jagdev Singh 2016 AIR (SCW) 3523,*** will not be applicable. Here considering the facts of the present case, it is to be firstly noted that ***Jagdev Singh***, the respondent in the above cited decision, was appointed as Civil Judge, Junior Division and then promoted as Additional Civil Judge. He had given undertaking when the pay was revised, which indicated that the amount paid if found

to be paid in excess, can be recovered/adjusted. Here it is to be noted that **State of Punjab and others vs. Rafiq Masih (White Washer) etc.,** (supra), squarely applies to the employees belonging to Class-III and Class-IV cadre. It is not stated specifically in the affidavit-in-reply as to under which Class the petitioner would fall. If respondent No.2 wants to rely on ***High Court of Punjab and Haryana and others vs. Jagdev Singh*** (supra), it has to be proved that the petitioner is from Class-I or Class-II category. Secondly, the undertaking that has been taken from the petitioner is after his retirement i.e. after about two months. Why the appropriate calculations were not made before his retirement, has not been stated. Therefore, we hold that the impugned letter issued by the Chief Accounts and Finance Officer, Municipal Corporation, Aurangabad for the recovery of amount of Rs.3,58,519/- is erroneous and deserves to be quashed and set aside. Hence, we pass following order:-

O R D E R

(I) The Writ Petition stands allowed.

(II) The impugned letter dated 26th June 2024, issued by the Chief Accounts and Finance Officer, Municipal Corporation, Aurangabad, stands quashed and set aside, to the extent of recovery of Rs.3,58,519/-.

(III) The amount of Rs.3,58,519/- be given to the petitioner within a period of 60 days, failing which it would attract the interest at the rate of 5% per annum, from the date of this order.

[AJIT B. KADETHANKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/OCT25