

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

WRIT PETITION NO.4935 OF 2025

NIKITA
KALAS
DASAGI

1. RADHARAMAN PANDHARINATH BUTALA

Age-65 yrs, Occ - Retired

R/o- Vakavali Tal - Dapoli,

Dist - Ratnagiri

2. MAMATA MARUTI SHINDE

Age-65 yrs, Occ - Retired,

R/o-Lanja Tal-Lanja,

Dist - Ratnagiri.

3. PRAKASH SITARAM APANDKAR

Age-65 yrs, Occ - Retired,

R/o-Ringane, Tal - Lanja,

Dist - Ratnagiri.

4. MUBARAK HAIDARALI SHAIKH

Age-65 yrs, Occ - Retired,

R/o-Lanja, Tal-Lanja,

Dist - Ratnagiri.

5. VISHWAS NAMDEO TALSANDEKAR

Age - 66 yrs, Occ - Retired,

R/o - Lanja, Tal-Lanja,

Dist - Ratnagiri.

6. JYOTI PRAKASH PATKI

Age-66 Occ-retired

R/o - Devrukh

Tal-Sangameshwar,

Dist - Ratnagiri

7. LALITA GOVIND GODE

Age-65, Occ- Retired

R/o Bhadkamba

Tal-Sangameshwar Dist - Ratnagiri

8. NANDKUMAR BAPU DESAI

Age-65 Occ-Retired

R/o-Samarth Krupa, Devrukh Dattanagar

Tal- Sangameshwar, Dist - Ratnagiri

9. SANJIVAN SHIVRAM SAWANT

Age-65 Occ-Retired

R/o - Ujgaon

Tal-Sangameshwar Dist - Ratnagiri

10. SANTOSH KASHINATH PARADHI

Age-65 Occ- Retired

R/o - Karjuve

Tal-Sangameshwar Dist - Ratnagiri

11. SHUBHANGI VISHNU KAMBLE

Age-65 Occ-Retired

R/o-Sakharpa

Tal-Sangameshwar Dist-Ratnagiri

12. RAMESH NARAYAN DAVRE

Age-65 Occ-Retired

R/o-Sakharpa

Tal- Sangameshwar Dist- Ratnagiri

13. LAXMAN RAMJI KATE

Age-65 Occ-Retired

R/o- Bharane

Tal-Khed

Dist- Ratnagiri

14. VIJAY SITARAM JADHAV

Age-65 Occretired

R/o-Ruee Colony, Kalmath

Gavdevadi Tal- Kankavli

Dist - Sindhudurga

15. SAKHARAM RATNU MORE

Age-65 Occ-Retired

R/o-Jamsut

Tal-Guhaghar Dist - Ratnagiri

16. VIJAY KANU JADHAV

Age-65 Occ-Retired

R/o-Karak

Tal-Rajapur, Dist - Ratnagiri

17. BALU VISHWANATH LONDHE

Age-65 Occ-Retired

R/o- Nandgaon

Tal-Chiplun, Dist - Ratnagiri

18. RANJANA RAOSAHEB SHINDE

Age-65 Occ Retired

R/o - Chiplun

Tal-Chiplun Dist - Ratnagiri

19. RUPALI TUKARAM TERAVER

Age-65 Occ - Retired

R/o-Pedhe Pankarvadi

Tal-Chiplun Dist - Ratnagiri

20. KANCHAN KIRAN BAPAT

Age-65 Occ- Retired

R/o - Ganpatipule

Tal & Dist - Ratnagiri

21. SNEHAL SUHAS SHINDE

Age - 65 Occ - Retired

R/o - Dapoli (Udaynagar)

Tal - Dapoli, Dist - Ratnagiri

22. SMITA CHANDRAKANT JOSHI

Age-65, Occ- Retired

R/o- Veravali (B)

Tal- Lanja, Dist- Ratnagiri

23. SHANKAR VITTHAL BHARADE

Age – 65, Occ - Retired

R/o-Tetavali

Tal - Dapoli, Dist - Ratnagiri

24. MIRABAI DHONDIRAM KAMBLE

Age- 65yrs, Occ- Retired

R/o- Khed, Tal- Khed,

Dist- Ratnagiri

.....PETITIONERS

Versus

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 Mumbai, Mumbai-1.

3. CHIEF EXECUTIVE OFFICER

Zilla Parishad,, Dist- Ratnagiri

4. THE EDUCATION OFFICER(PRIMARY)

Zilla Parishad,, Dist- Ratnagiri

**5. THE DEPUTY CHIEF ACCOUNTANT AND
FINANCE OFFICER**

Zilla Parishad Ratnagiri

Dist- Ratnagiri

....RESPONDENTS

Mr. Shashank Mangale a/w Mr. Satish Raut a/w Mr. Tanmay Shembavanekar for the Petitioners.

Mr. B. V. Salunkhe, i/b Mr. Ashish Pawaskar for the Respondent Nos. 3, 4, and 5.

Ms. Pooja Joshi Deshpande, for the Respondent Nos. 1 and 2.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 28th APRIL, 2025

ORAL JUDGMENT (Per Ravindra V. Ghuge,J.)::-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The 24 Petitioners are identically placed. They are all

working with Zilla Parishad Ratnagiri. They have put forth prayer clause (b), which reads as under:

“(b) That by Writ of Mandamus and or by appropriate writ, direction and order of similar nature, the Hon’ble Court be pleased to quash and set aside the impugned orders of recovery in respect of Petitioners at Exhibit B-1 to B-24 passed by the Respondent No.5.”

3. The Petitioners are employees who were working with the Respondent Zilla Parishad and have 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, calculated on the basis of acquiring the certificate of MS-CIT etc. These pay scales were revised more than a decade ago.

4. 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 retirement benefits/pensionary benefits, are as under:

Sr. No	Retired Teacher's Name	Amt. Of Recovery (In Rupees)	Retired Date	Z. P. School	Date Of Impugned Order
1.	RADHARAMAN PANDHARINATH BUTALA	34377	31/10/18	SAKHLOLI DAPOLI	21/01/18
2.	MAMATA MARUTI SHINDE	428905	01/01/18	RAVRI LANJA	21/05/18
3.	PRAKASH SITARAM APANDKAR	26669	31/07/18	YERDAV NO.2 RAJAPUR	19/07/18
4.	MUBARAK HAIDARALI SHAIKH	23738	31/05/18	INDAVATI LANJA	17/05/18
5.	VISHWAS NAMDEO TALSANDEKAR	12789	31/01/17	MAJAL LANJA	16/01/17
6.	JYOTI PRAKASH PATKI	261642	01/12/17	DEVBUKH NO. 1 SANGAMESHWAR	01/09/18
7.	LALITA GOVIND GODE	54262	30/11/18	SAKHARPA SANGAMESHWAR	01/09/18
8.	NANDKUMAR BAPU DESAI	38159	31/12/18	HARPUDE SANGAMESHWAR	05/09/18
9.	SANJIVAN SHIVRAM SAWANT	25060	31/05/18	PARGAON SANGAMESHWAR	18/05/18
10.	SANTOSH KASHINATH PARADHI	32886	31/12/18	DHAMA PUR NO.5 SANGAMESHWAR	05/11/18
11.	SHUBHANGI VISHNU KAMBLE	22242	31/05/18	SAKHARPA JOYSHI SANGAMESHWAR	21/05/18
12.	RAMESH NARAYAN DARVE	30415	30/09/18	KINER SUTAR SANGAMESHWAR	18/08/18
13.	LAXMI RAMJI KATE	148228	02/01/18	BHARNE BAIT KHED	11/06/18
14.	VIJAY SITARAM JADHAV	25943	31/05/18	LOTE NO. 1 KHED	23/05/18
15.	SAKHARAM RATNU MORE	179291	01/06/18	SHEER NO. 1 GUHAGHAR	13/08/18
16.	VIJAY KANU JADHAV	130343	31/08/18	TALAVADE RAJAPUR	06/08/18
17.	BALU VISHWANATH LONDHE	139942	31/05/18	NANDGAON CHIPLUN	28/05/18
18.	RANJANA RAOSAHEB SHINDE	71375	30/11/19	KONDMALA CHIPLUN	21/01/20
19.	RUPALI TUKARAM TERAOKAR	55385	01/02/18	PEDHE PAVANKAR CHIPLUN	23/05/18
20.	KANCHAN KIRAN BAPAT	22953	01/06/18	NIVENDI KHALCHI RATNAGIRI	08/10/18
21.	SNEHAL SUHAS SHINDE	106847	01/04/18	PAJPAN DHARI DAPOLI	11/06/18
22.	SMITA CHANDRAKANT JOSHI	172391	31/05/18	VERAVALI LANJA	23/05/18
23.	SHANKAR VITTHAL BHARADE	29982	31/05/18	SUKIVALI KHED	27/06/18
24.	MIRABAI DHONDIRAM KAMBLE	50038	30/11/18	KANYA SHALA DAPOLI	15/11/18

5. 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 scale become payable. In some cases, at the stroke of retirement, a condition was imposed that they should execute an undertaking and in these coercive circumstances, that undertaking were extracted from some of them.

6. The learned Advocate representing the Zilla Parishad as well as the learned AGP, 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 1 September, 2021, *in Writ Petition No. 13262 of 2018 filed by Ananda Vikram Baviskar Vs. State of Maharashtra and others*.

7. 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.

8. 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.

9. 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 this case.

10. **The Writ Petition is partly allowed.** The Impugned orders are quashed and set aside. The amounts have already been recovered from these Petitioners on the dates mentioned in the chart. However, all of them have approached in this common Petition on 12th March, 2025. Hence, the amounts so deducted would be returned to the Petitioners within a period of 90 days from today.

11. If the amounts are not repaid within 90 days, since the Petitioners have belatedly approached this Court, they would be entitled for the interest at the rate of 5% p.a. from the date of the filing of the Petition.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)