

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

WRIT PETITION NO. 14383 OF 2025

Bajarang Shankar Supe

Age. 60 years, Occ. Retired

as a Principal R/at. Post Wada,

Taluka Khed, Rajgurunagar,

District Pune 412402

... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001

2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001

... Respondents

WITH

WRIT PETITION NO. 14131 OF 2025

Dnyaneshwar Punaji Mormare

Age. 61 years, Occ. Retired

as Primary Teacher R/at.

Post Tokawade, Taluka Khed,

Rajgurunagar District

Pune 412402

... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001

2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001

... Respondents

**WITH
WRIT PETITION NO. 14443 OF 2025**

Raghunath Shantaram Kavale
Age. 63 years, Occ. Retired
as Primary Teacher R/at.
Post Nayphad, Taluka Khed,
Rajgurunagar District
Pune 412402

... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

**WITH
WRIT PETITION NO. 13951 OF 2025**

Gangaram Mahadev Damse
Age. 61 years, Occ. Retired
as a Primary Teacher R/at.
Panchale Khurd, Taluka
Ambegaon, District Pune 412402

... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

**WITH
WRIT PETITION NO. 13962 OF 2025**

Tarachand Devram Talpe
Age. 61 years, Occ. Retired as a
Primary teacher R/at. Torne Khurd,
Post Amboli, Taluka - Khed
Rajgurunagar, Pune 410505 ... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

**WITH
WRIT PETITION NO. 14149 OF 2025**

Suryakant Govind Kengale
Age. 61 years, Occ. Retired as
Primary Teacher R/at. Post Jambhori,
Taluka Ambegaon,
District Pune - 410509 ... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

**WITH
WRIT PETITION NO. 14293 OF 2025**

Maruti Vitthal Phalke
Age. 61 years, Occ. Retired as a
Primary Teacher R/at. Goregaon,
Post Aavhat, Taluka Khed
Rajgurunagar, District Pune - 412402 ... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

**WITH
WRIT PETITION NO. 14124 OF 2025**

Dattatray Panghaji Milkhe
Age. 63 years, Occ. Retired as a
Primary Teacher R/at.
Post. Nayphal, Taluka Rajgurunagar,
Khed District Pune 412402 ... Petitioner

Versus

1. Zilla Parishad, Pune Through
Chief Executive Officer
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp
Pune 411001
2. Deputy Chief Accounts and Finance Officer
Zilla Parishad,
Yashwantrao Chavhan Bhavan
1, Wellesley Road, Camp Pune 411001 ... Respondents

Mr. Sandeep Dere a/w Ms. Tanvi D., Ms. Sonali Pawar, Ms. Pooja Mankoji, Advocates for the Petitioners in WP Nos. 14383 of 2025, 13951 of 2025, 13962 of 2025, 14293 of 2025, 14149 of 2025, 14443 of 2025, 14131 of 2025, 14124 of 2025.

Mr. Ashwin R. Kapadnis, Advocate for Respondents in all matters.

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

DATE : 10th DECEMBER, 2025

ORAL JUDGMENT : (PER : RAVINDRA V. GHUGE, J.)

1. Leave to correct the prayer clause (a), in all the matters.

Correction be carried out forthwith.

2. Call for papers in Writ Petition No. 14124 of 2025, which is not listed in this group, though ordered on 5th December, 2025.

3. **Rule.** Rule made returnable forthwith and heard finally, with the consent of the parties.

4. A short issue emerges from this Petition, for our consideration. The Petitioners were appointed as Primary Teacher - class-III on the dates mentioned in the pleadings (1986 onwards). They

were promoted to the post of Principal and posted at Valad College, Khed, Pune on 16.10.2009 (the first Petitioner) and on similar dates. As per the verification exercise conducted under the Right of Children to Free and Compulsory Education Act, 2009, 389 posts of Principals were sanctioned as against 424 candidates already working as Principals as in June, 2014. 35 Principals were found to be in excess of the sanctioned posts. The Petitioners were some of them. The first Petitioner claims that his willingness for demotion was forcibly obtained and the same was approved by the Zilla Parishad on 01.08.2014. Similar are the submissions of the other Petitioners.

5. On 14.08.2014, the first Petitioner was transferred from Valad School to Dagadiwadi School as a Primary Teacher. The other Petitioners were also similarly transferred as Primary teachers at various locations. While working as Primary Teachers, all were inadvertently paid the salary of a Principal. The first Petitioner continued to draw the salary of a Principal until his retirement on 30.04.2024. On 28.05.2024, his service book was verified by the Pension Department and a query was raised that he was inadvertently paid excess salary of Rs.3,21,200/-. Without a hearing, post retirement, an order was passed by the Deputy Chief Auditor and Finance Officer, Zilla Parishad, Pune directing

deduction of Rs.3,21,200/- from the retiral benefits towards the gratuity amount. All the other Petitioners are similarly affected by the impugned action initiated after their retirements.

6. The learned Advocate for the Zilla Parishad has strenuously opposed these Petitions and submits that the same deserve to be dismissed with heavy costs. The Petitioners ha indulged in unjust enrichment and if they are permitted to retain the amount of Rs.3,21,200/- and similar amounts, it would amount to a grave loss to the State exchequer, which is the tax-payers money.

7. The learned Advocates for the Petitioners rely upon *Sayed Abdul Qadir v/s. State of Bihar*¹ and *State of Punjab and Ors. v/s. Rafiq Masih (White Washer)*². They also rely upon a judgment dated 23rd March, 2023 delivered by this Court at the Aurangabad Bench in Writ Petition No.3320 of 2023 (*Shaikh Amir Shaikh Kadar V/s. The State of Maharashtra Through its Secretary And Others*) and connected group of cases, wherein this Court has dealt with the aspect of extracting an affidavit or an undertaking from an employee post retirement for permitting the employer to deduct excess amounts from the retiral

1 (2009) 3 SCC 475

2 (2015) 4 SCC 334

benefits.

8. The learned Advocate for the Zilla Parishad submits that the Petitioners have voluntarily executed undertakings after their retirements. However, this Court has concluded that if an undertaking is not taken from the concerned employee at the time of making the excess payment or granting increments, though inadvertently, the act of extracting an affidavit post retirement or at the time of retirement would amount to duress and coercion.

9. In view of the above, and considering the law laid down by the Hon'ble Supreme Court in *Sayed Abdul Qadir v/s. State of Bihar* and *State of Punjab and Ors. v/s. Rafiq Masih (White Washer)* (supra), **all these Writ Petitions are partly allowed.** The amounts deducted from the gratuity amounts, shall be returned to all these Petitioners without interest, if they are repaid within 45 days, failing which the amounts would gather interest @ 5% p.a. from the dates they were deducted from the gratuity amounts of these Petitioners.

10. In the event the pension of these Petitioners is wrongly calculated on the quantum of the last drawn salary which was inadvertently of the scale payable to the Principal, or as the case may be,

we grant liberty to the Zilla Parishad to issue individual notices to these Petitioners, call for their explanations within 15 days from the receipt of the notices and thereafter pass appropriate orders for re-fixation of the pension as per the actual salary payable. This order shall apply prospectively and the correction of the pension emoluments would be applicable prospectively from the date of this Judgment. In short, there would be no recovery of the pension amounts already paid, though inadvertently. Needless to state, that the above directions will not be applicable, if the above exercise is already concluded.

11. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)