

Digitally signed  
by SUNNY  
ANKUSHRAO  
THOTE  
Date:  
2025.10.16  
09:49:45  
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 3263 OF 2025**

Ibrahim Abdul Gafoor Naik,  
age 58 years, Indian Inhabitant of  
Mumbai residing at Gupta Compound,  
Chacha Nagar, Service Road, Jogeshwari  
East, Mumbai – 400 060

...Petitioner

***Versus***

1. Municipal Corporation of Greater Mumbai,  
through the Municipal Commissioner,  
Mahapalika Marg, Mumbai- 400 001.
2. The Deputy Municipal Commissioner,  
Public Health Department, Municipal  
Corporation of Greater Mumbai,  
M.C.G.M. Head Office, Ext. Building,  
6<sup>th</sup> Floor, Mumbai – 400 001.
3. The Medical Officer of Health  
(P/N Ward), 2<sup>nd</sup> floor, P/North Ward  
office Building, Opp. Liberty Garden,  
Mamletdar Wadi, Malad (West),  
Mumbai – 400 064.
4. The Assistant Health Officer,  
Kasturba Hospital Campus, Ward  
No.11, Sane Guruji Marg,  
Chinchpokli, Mumbai – 400 001.

...Respondents

**\*\*\*\***

Ms. Panthi Desai i/by M/s. M.P. Vashi & Associates, Advocate for  
the Petitioner.

Mr. Drupad S. Patil a/w Mr. Shivprasad D. Borade, Advocate for  
Respondent Nos.1 to 4/BMC.

**\*\*\*\***

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

DATE : 14<sup>th</sup> OCTOBER, 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 contesting Respondent Corporation has entered an affidavit in reply dated 14<sup>th</sup> October, 2025.

3. The Petitioner has put forth Prayer Clauses (a), (b), (c), (d) and (e), as under :-

*“(a) That the writ of certiorari or any other writ, order or direction be issued calling for the records and files of the case and after going into the legality and validity of the impugned letter/ communication dated 4<sup>th</sup> June, 2025 (Exhibit – E), quash and set aside the same.*

*(b) That the writ of certiorari or any other writ, order or direction be issued calling for the records and files of the case and after going into the legality and validity of the impugned letter/ communication dated 13<sup>th</sup> June, 2025 (Exhibit – G), quash and set aside the same.*

*(c) That a writ of mandamus or any other writ, order or direction be issued ordering and directing*

*the Respondents to pay to the Petitioner the salary for the month of June, 2025 along with interest at the rate of 18% p.a.*

*(d) That a writ of mandamus or any other writ, order or direction be issued, ordering and directing the Respondents not to make any further recoveries from the retirement benefits of the Petitioner.*

*(e) That the writ of mandamus or any other writ, order or direction be issued ordering and directing the Respondents pay to the Petitioner all retirement benefits such as pension, gratuity, public provident fund, encashment of leaves etc. as per the last drawn salary along with interest at the rate of 18% p.a.”*

4. The issue before us is that the Petitioner, who was working as Surveillance Investigator of the Corporation since 1<sup>st</sup> April, 1991 has superannuated on 30<sup>th</sup> June, 2025 and thereafter, subjected to recovery of large amounts on the ground that he had not passed his Marathi exam. Excess amounts were purportedly paid to him by way of an increment under the 6<sup>th</sup> Pay Commission Recommendations. After retirement, the retiral dues and salary for the month of June-2025. Therefore, the Petitioner approached this Court by preferring this Writ Petition.

5. Respondent Nos.1 to 4 have filed an affidavit in reply dated 14<sup>th</sup> August, 2025 along with accompanying documents. They have vehemently opposed this Petition. It is contended that the

circular issued by the concerned Corporation mandates that they should pass Marathi Exam. Inadvertently, he was granted yearly increments from February-2006, though he had not passed the Marathi Exam. Hence, it is prayed that this Petition be dismissed.

6. The Corporation has issued two communications dated 4<sup>th</sup> June, 2025 and 13<sup>th</sup> June, 2025, which can be assailed before this Court. What has been done is that the retiral benefits of the Petitioner have been withheld, purportedly, to the extent of the recoverable amount of Rs.22,91,143/-, as set out in the letters dated 4<sup>th</sup> June, 2025 and 13<sup>th</sup> June, 2025. The Corporation has taken a stand that excess amount of Rs.18,73,970/-, was wrongly paid to the Petitioner under the presumption that he has proficiency in Marathi language. The arrears of payment as per the 6<sup>th</sup> Pay Commission, are Rs.4,17,173/-. The total amount is computed at Rs.22,91,143/-.

7. The learned Advocate for the Petitioner has placed reliance upon the Judgments of this Court dated 23<sup>rd</sup> March 2023, delivered at Aurangabad in Writ Petition No.3320 of 2023 and a group of cases (*Shaikh Amir Shaikh Kadar Vs. State of Maharashtra and Ors.*) and dated 9<sup>th</sup> February, 2024, delivered in the Writ

Petition No.6763 of 2023 (*Khan Almas Zohara Vs. State of Maharashtra and Ors.*). The Petitioner also relies on 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 344 =AIR 2015 SC 696.

8. Considering the crystallized position of law and keeping in view that though the Petitioner was not able to clear the Marathi language test, we find that there is no allegation that this deficiency created obstruction in the day to day working of the Petitioner, in as much as, the Corporation has not passed any order of recovery.

9. As such, this **Writ Petition is partly allowed.**

10. The Corporation would retain the amount towards the establishment viz. conveyance allowance, travelling allowance and other recoverable dues, by deducting the same from the arrears to be paid to the Petitioner. The rest of the amount shall be paid to the Petitioner within a period of eight weeks from the submission of all

the requisite documents, failing which, we are granting interest at the rate of 6% on the unpaid amount, from the date it became payable post retirement of the Petitioner, till the same is paid. For such delay, the interest component shall be recovered from the salary account of the Officer, who may have caused a delay in making the payment to the Petitioner, within the above stated period.

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

**(ASHWIN D. BHOBE, J.)**

**(RAVINDRA V. GHUGE, J.)**