



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.562/2025

Zilla Parishad Amravati and anr. .Vs. Naresh Purushottam Nirgude and anr.

AND

WRIT PETITION NO.563/2025

Zilla Parishad Amravati and anr. .Vs. Pramod Rambhau Mohite and anr.

AND

WRIT PETITION NO.564/2025

Zilla Parishad Amravati and anr. .Vs. Suresh Sudamrao Tantarapale and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Milind Rathi, Advocate for petitioners.

Mr. S. B. Bissa, Ms M. Naik and Ms K. Marpakwar, A.G.P. for
respondent - State.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 25, 2025

Heard.

2. On 06.02.2025, following order was passed:

“On 30.01.2025, following order was passed.

“1. *Heard.*

2. *The petitioners intend to challenge the order passed by the Controlling Authority under Section 7(4)(b) of the Payment of Gratuity Act, 1972.*

3. *Sub-section (7) of Section 7 of the Payment of Gratuity Act, 1972 provides that a person aggrieved by an order passed under Sub-section (4) may within 60 days from the date of order file appeal before the appropriate authority.*

4. *Despite such provision, the petitioners have approached this Court.*

5. *The petitioners, therefore shall first satisfy as to how the petition is maintainable. Prior thereto, the petitioners shall deposit the amount in terms of proviso to sub-section (7) of Section 7 of the Payment of Gratuity Act, 1972.*

6. *Stand over to 06/02/2025.”*

2. The petitioners seek time to satisfy as to how the petition is maintainable.
3. Stand over to 25.02.2025.”

3. Learned counsel for the petitioner submits that since challenge to the impugned order was made on or about 28.01.2025, which is after stipulated period to file appeal, the petitioners will not be able to file appeal, even if liberty is granted by this Court. He submits that one of the grounds of challenge is that the controlling authority had no jurisdiction to entertain the application and, therefore, the petitions are maintainable. He submits that Maharashtra Civil Services (Pension) Rules, 1982, have been made applicable to the Zilla Parishad employees. They will be entitled for payment of gratuity, pension and other retiral benefits in terms of the said rules and, therefore, will not be governed by the provisions of the Payment of Gratuity Act, 1972.

4. Counsel for petitioner has also invited my attention to the definition of “Employee” as provided under Section 2 (e) of the Payment of Gratuity Act, 1972, which reads thus:

“2(e) "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity ”

5. The argument is that the employees who hold a post under the State Government and is governed by any other Act or by any rules providing for payment of gratuity, are excluded from the definition of the employee. According to the petitioner’s counsel,

though respondent No.1 is not holding a post under the State Government, the posts in Zilla Parishad are created by the State Government and thus, the employees will be at par with the State Government and further are governed by the Maharashtra Civil Services (Pension) Rules, 1982.

6. The counsel submits that the Payment of Gratuity Act, 1982 is enacted for a scheme of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith. According to him, the Zilla Parishad will not fall in any of these categories. He submits that the functioning of Zilla Parishad including creation of posts, appointments and regularization, etc. is, in a way, controlled by the State Government.

7. Issue notice returnable in four weeks.

8. Learned A.G.P. waive service for the respondent No.2 – State.

9. In addition to usual mode of service, the petitioners shall serve the respondent No.1 through all permissible modes including service by speed post and shall file affidavit of service.

(Anil L. Pansare, J.)