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

WRIT PETITION NO. 5382 OF 2024

Gayatri Panwar ….Petitioner

Versus

The Municipal Corporation of Greater Mumbai & Anr. ….Respondents

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Mr. Mihir Desai (Senior Advocate) i/b. Ms. Rishika Agarwal a/w Mr. Moosa Izzat, for the Petitioner.
Mr. Vinay Kanodia i/b. Mr. Vikas Pandey, for Respondent Nos. 3 and 4.
Ms. Pushpa Yadav, for Respondent/BMC.
Mr. Daivat Kulye, A.O. Primary School, is present.

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.
DATE : 9th APRIL, 2026

P.C. :-

1. Pursuant to the order of this Court dated 6th April 2026, the learned Advocate for the Corporation has tendered a compilation of documents (5 pages). The said compilation is taken on record and marked as **<u>‘X-1’</u>** collectively, for identification. A statement is made on instructions that the arrears of pension, along with the gratuity amount, would be deposited in the account of the Petitioner on or

before 30th April, 2026.

2. The learned Advocate for the Corporation submits that he has no instructions as regards the interest component on the delayed payment of pension, as well as, gratuity. We, therefore, direct that, in so far as the arrears of pension are concerned, simple interest at the rate of 5% per annum shall be paid. In so far as the delayed payment of gratuity is concerned, keeping in view that the Petitioner superannuated on 31.03.2020, as a result of which the gratuity became payable on 01.05.2020, we direct payment of statutory interest at the rate of 10% per annum for the delayed period. This direction is issued in the light of the order of the Hon'ble Supreme Court in ***Gagan Bihari Prusty vs. Paradip Port Trust & Ors.***[1] Wherein it has been held that statutory interest on gratuity must be paid by the employer 'without any excuse'.

3. In view of the above directions, **this Petition is disposed off**.

4. Before parting with this matter, we record our astonishment at the fact that the 7th Pay Commission

1 SLA(C) No(s). 4468 of 2022 dated 03.03.2025

recommendations, which form the basis for the calculation of the Petitioner's pension and gratuity, have been ignored. By notification dated 17.10.2023, the Maharashtra Employees of Private Schools (Conditions of Service) (Second Amendment) Rules, 2023 have been introduced, amending Schedule 'C' of the 1977 Act and Rule 7(1) of the 1981 Rules, with effect from 01.01.2016.

5. The pay scale as per the 7th Pay Commission recommendations applicable to primary teachers indicates the quantum of pay available to employees who are in service on and after 01.01.2016. The Petitioner was unquestionably in employment until her superannuation on 31.03.2020. For the period from 01.01.2016 to 31.03.2020, she would be entitled to the benefits of the 7th Pay Commission recommendations.

6. We had noted in our order dated 06.04.2026 that the Municipal Corporation shall inform us as to why the benefits of the 7th Pay Commission recommendations have still not been extended to its employees over the last 10 years, when the said recommendations were in force up to 31.12.2025. We are informed that the Additional Commissioner of the Municipal Corporation is

receiving salary as per the 7th Pay Commission recommendations.

7. The learned Advocate for the Corporation attempted to tender remarks of a Deputy Education Officer as a response on behalf of the Municipal Corporation. We are amazed at the approach of the Corporation in asking a Deputy Education Officer to respond to a query as significant as the one set out in paragraph No. 4 of our order dated 06.04.2026.

8. We, therefore, decline to accept the compilation of documents tendered by the learned Advocate for the Corporation. We direct the Corporation, through an officer not below the rank of an Additional Commissioner of the Municipal Corporation, to file an affidavit explaining why the benefits of the 7th Pay Commission recommendations have not been extended to teachers and non-teaching staff.

9. This affidavit shall be filed on or before 23rd April 2026, and no extension of time shall be granted under any circumstances.

10. List this disposed off Petition on **29th April 2026**, in the

‘Urgent Supplementary Board’ for recording compliance.

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