

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8294 OF 2015

Association of College and University
Superannuated Teachers, (Maharashtra)
A Society registered at No.MAH-853/2009
Under the provisions of the Societies
Registration Act, having its Head
office at 20, Sawarkarnagar,
N-5 (South) Cidco, Aurangabad,
through its President and Convenor,
Principal Dr.Macchindra A.Wahul **PETITIONER**

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai-32
- 2] The Director, Higher Education,
Maharashtra State, Pune
- 3] University Grants Commission,
Bahadurshah Jafar Marg,
New Delhi - 100 001
- 4] The Joint Director, Higher Education,
Aurangabad Region, Aurangabad
- 5] The Joint Director, Higher Education,
Nanded Region, Nanded
- 6] The Joint Director, Higher Education,
Jalgaon Region, Jalgaon
- 7] The Joint Director, Higher Education,
Nagpur Region, Nagpur

- 8] The Joint Director, Higher Education,
Kolhapur Region, Kolhapur
- 9] The Joint Director, Higher Education,
Pune Region, Pune
- 10] The Joint Director, Higher Education,
Solapur Region, Solapur
- 11] The Joint Director, Higher Education,
Amravati Region, Amravati
- 12] The Accountant General, Nagpur
- 13] The Accountant General, Mumbai

[Respondents No.1,2 and 4 to 13
to be served on the Government
Pleader, High Court, bench at
Aurangabad and the Respondent No.3
to be served on the Standing Counsel
for the Union of India] **RESPONDENTS**

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Mr.Adwant S.V., Advocate for the petitioner
Mr.S.B.Yawalkar, AGP for Respondents/State
Mr.Alok Sharma, Advocate for Respondent No.3
Mr.S.B.Deshpande, Advocate for Respondent
Nos.12 and 3.

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**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL, JJ.**

Date: 07.06.2016

JUDGMENT: [Per S.S.Shinde, J.]:

- 1] Heard.

2] Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

3] The learned counsel for the petitioner has restricted this petition to the prayer clauses (C), (D) and (I).

4] Though, the learned counsel for the petitioner prays relief in terms of prayer clauses (C), (D) and (I), the learned AGP vehemently opposed the relief in terms of prayer clauses (D) and (I).

5] So far prayer clauses (D) and (I) is concerned, liberty to the petitioner to file the comprehensive representation to the respondents.

In this Petition, we are inclined to entertain the prayer clause-C keeping in view the fact that, members of the petitioner's Association have retired from service on

attaining age of superannuation. It appears that, the State Government has issued instructions to their officials that for pay fixation of teachers, as per 6th Pay Commission, the amount paid to them under the stagnation increment scheme be recovered and till then the benefits of the 6th Pay Commission be not extended to such teachers. It is the case of the petitioner that, the petitioners are also covered under the said instructions and the State has, thus, forcibly recovered the amount of stagnation increment, paid to the teachers, who are the members of the petitioner Association and procured undertakings from them under coercion and duress. The aforesaid issue is no longer res ☐ integra and in similar fact-situation, the Division Bench of this Court in Writ Petition No.1054/2012 [Dr.Vinayak Narayanrao Dasare & others Vs. The State of Maharashtra & others] along with

connected Writ Petitions thereto, decided on October 1, 2013, allowed the Petitions by setting aside the impugned communications therein, directing the respondents not to recover the amount from the petitioners, as sought to be recovered under the said communications from individual petitioners and/or members of the petitioner-association. It was also further observed that in case amount has already been recovered, the respondents shall return and repay the same to the petitioners and the members of the association from whose pensionary benefits the same is deducted, within a period of three months along with interest at the rate of Rs.12/- per cent per annum.

6] Therefore, for the same reasons, which are assigned in paragraphs 3 to 9 of the judgment in Writ Petition No.1054/2012 along with connected Writ Petitions, the impugned communications dated 10th March, 2008

and 18th March, 2010 are quashed and set aside. The respondents are directed not to recover the amount from the petitioner and/or members of the petitioner - Association. In case, any amount has already been recovered, we direct that such amount shall be returned and repaid to the petitioner and its members from whose pensionary benefits the same is deducted, within a period of three months from today along with interest at the rate of Rs.12/- per cent per annum.

7] The Petition is partly allowed. Rule is made absolute in above terms and Petition stands disposed of accordingly with no order as to costs.

Sd/-
[SANGITRAO S.PATIL]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE

DDC