



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2087 OF 2016

1. Yuvraj S/o Santrao Bhole,
Aged: 29 years, Occ: Service
as Superintendent at Shriram
Balgruha, Latur, Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
2. Avinash S/o Dadasaheb Bhosale,
Aged: 30 years, Occ: Service as
Counselor at Shriram Balgruha,
Latur, Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
3. Laxman S/o Gundu Giri,
Aged: 32 years, Occ: Service as
Counselor at Shriram Balgruha,
Latur, Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
4. Sadiq Ayyub Birajdar,
Aged: 30 years, Occ: Service as
Clerk at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
5. Smt. Shaikh Rahinabegum
Mohammad Pasha,
Aged: 34 years, Occ: Service as
Cook at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
6. Smt. Rajkanya Dattatraya Gunale,
Aged: 36 years, Occ: Service as
Cook at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.

7. Vijay S/o Baburao Patil,
Aged: 28 years, Occ: Service as
Helper at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
8. Pramod S/o Dadasaheb Bhosale,
Aged: 30 years, Occ: Service as
Helper at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
9. Ramrao S/o Baburao Nalpure,
Aged: 45 years, Occ: Service as
Helper at Shriram Balgruha, Latur,
Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
10. Anil S/o Mahadev Aade,
Aged: 33 years, Occ: Service as
Caretaker at Shriram Balgruha,
Latur, Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.
11. Dnyandeep S/o Ramrao Nalpure,
Aged: 23 years, Occ: Service as
Caretaker at Shriram Balgruha,
Latur, Tq. & Dist. Latur,
R/o Latur, Tq. & Dist. Latur.

...PETITIONERS

- VERSUS -

1. The State of Maharashtra,
Through its Chief Secretary
Maharashtra State,
Mantralaya, Mumbai - 32.
2. The Secretary to the Government
of Maharashtra in Women and

Child Development Department,
Mantralaya, Mumbai-32.

3. The Principal Secretary to the
Government of Maharashtra
in Finance Department,
Mantralaya, Mumbai 32.
4. The Principal Secretary to the
Government of Maharashtra
in Planning Department,
Mantralaya, Mumbai 32.
5. The Commissioner,
Women and Child Development,
Maharashtra State, Pune.
6. The Divisional Deputy Commissioner,
Women and Child Development,
Aurangabad Division, Aurangabad.
7. Sadbhavana Social Research
Youth Foundation, Matola,
Tq. & Dist. Latur.
Through its President/Secretary.

...RESPONDENTS

**WITH
WRIT PETITION NO. 4198 OF 2016**

MAHESH RAMBHAU MHETRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

**WITH
WRIT PETITION NO. 4199 OF 2016**

SANDEEP PANDHARINATH PHAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

WITH
WRIT PETITION NO. 4202 OF 2016

SHASHISHEKHAR SHIVSHANKARAPPA MAHAJAN AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3005 OF 2016

NAGNATH MAHADAPPA NIGUDGE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3006 OF 2016

RAJESH DHONDIBA SURWASE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3007 OF 2016

SHIVAJI ISHWAR RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3008 OF 2016

VAISHALI SHRIRAM MULE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3009 OF 2016

SUHAS SUDAMRAO DENG AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3010 OF 2016

RAVI BHIMRAO CHAVAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3011 OF 2016

KISHOR SHIVHAR CHILLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3014 OF 2016

BHARAT CHANDAR PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3015 OF 2016

GAJANAN SHRIPATI MASKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3016 OF 2016

ASHOK MANIKRAO GARAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3017 OF 2016

RAMAKANT KASHINATH RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 3018 OF 2016

AMOL CHANDRAKANT RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 4197 OF 2016

KAILAS KESHAVRAO SHEP AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH
WRIT PETITION NO. 4200 OF 2016

RAHUL ASARAM BHOSALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

WITH

WRIT PETITION NO. 4201 OF 2016

MAHESHWAR RAM GIRI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

WITH
WRIT PETITION NO. 4203 OF 2016

SANDIPAN ACHYUTRAO HARALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Shri N.P. Patil Jamalpurkar, advocate for the petitioners.
Dr. Kalpalata Patil Bharaswadkar, Addl. GP for respondent Nos.1
to 6/ State.

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CORAM : KISHORE C. SANT
&
SUSHIL M. GHODESWAR, JJ.

Reserved on : 21 April 2026

Pronounced on : 07 May 2026

ORDER (Per Sushil M. Ghodeswar, J.) :-

“Our children are the rock on which our future will be built, our greatest asset as a nation.”

“Safety and security don’t just happen; they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear.”

- Nelson Mandela
1st President of South Africa.

1. Heard the learned advocates for the respective parties.
2. Since all these petitions raise a common grievance, therefore, they are being decided by this common order.
3. For the sake of brevity and for proper appreciation of submissions of the parties, the facts from Writ Petition No.2087/2016, are taken into consideration in this order.

CONTENTIONS OF THE PETITIONERS

4. The petitioners are the employees of the institutions/ child homes/ Bal-Gruhas run by un-aided voluntary organizations/ Non-Government Organizations (hereinafter referred to as 'NGO') established under the Societies Registration Act and the Maharashtra Public Trusts Act. The petitioners are working on different posts like Superintendent, Assistant Superintendent, Counselor, Junior Clerk, Caretaker, Cook etc. in the Bal-Gruhas (child homes) run by these un-aided NGOs. The staffing pattern and pay scale of these employees has been prescribed vide Government Resolution dated 29.07.2006.

Since these NGOs are not being provided salary grants by the State Government, the petitioners, therefore, through these petitions, are praying for issuance of directions to the respondent Government Authorities to bring their service conditions at par with those of the State Government employees and to sanction and release salary grants in their favour from the date of their appointments.

5. It is the case of the petitioners that Section 34 of The Juvenile Justice (Care and Protection of Children) Act, 2000 (old Act) provides that the State Government may establish and maintain either by itself or in association with voluntary organizations, children's homes, for the reception of child in need of care and protection. In such children's homes, activities like the child's care, treatment, education, training, development and rehabilitation are to be undertaken strictly as per the statute. Vide Sub-section (2) of Section 34 of the old Act, it is prescribed that the State Government may provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances and the manner in which, the certification of children's home or

recognition to a voluntary organisation may be granted or withdrawn.

6. According to the petitioners, subsequently, the old Act came to be replaced by another enactment, namely, The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No. 2 of 2016) (the new Act), wherein, provisions of section 34 of the old Act have been incorporated in Section 50 of the new Act with minor changes. Thus, it is to be seen that the children's homes established by such voluntary non-governmental organizations has to be registered and these children's homes are required to take care of children in need and provide treatment, education, training, development and rehabilitation. The State Government may provide rules for monitoring and management of such children's homes.

7. It is the case of the petitioners that under the Women and Child Development Department of the State of Maharashtra, child care resident centers like Balak Ashram, Bal Sadan and Anathalaya were being run for orphans, destitute, physically and mentally challenged as well as HIV disease affected children. Further, the State Government issued Government Resolution

dated 22.12.2006, wherein, the provision came to be made for grant in aid for each child admitted in balgruhas towards his day to day needs. Again, on 30.03.2007, another Government Resolution came to be issued recognizing balakadhram, balsadan and anathlaya as Balgruhas under the old Act of 2000. According to the petitioners, vide another Government Resolution dated 29.07.2006, the State Government has also provided the staffing pattern and pay scale for each post on such Balgruhas.

8. According to the petitioners, this is not the first occasion for such appointees working in Child Homes of Un-aided NGOs to approach this court. But, earlier the Principal Seat of this Court in Writ Petition No. 990 of 1993 (Original Civil Jurisdiction) (*Malan Karale and others vs. Ms. Aloo Chibber and others*) dealt with similar issue when employees of Balkalyan Nagari – a home set up for the care and protection of destitute children, being run by Children’s Aid Society, sought relief on the ground of equal pay for equal work as employees of other six children homes run by Children’s Aid Society were receiving salary grants except Balkalyan Nagari. The said Children’s Aid Society was already held to be instrumentality of the State under

Article 12 of the Constitution of India vide *Sheela Barse Vs. Secretary, Children's Aid Society and others, (1987) 3 SCC 50 : AIR 1987 SC 656*. On 08.04.2005, this Court vide its elucidated judgment in *Malan Karale (supra)*, held that the petitioners are entitled for the same pay scales as that of employees working in other institutions of the Children's Aid Society with effect from date of institution of writ petition. The State Government was accordingly, directed to discharge liability of releasing grant to the Children's Aid Society. The said judgment of principal seat attained finality in view dismissal of the Special Leave to Appeal (Civil) No. 1136/2006 preferred by the State Government, vide order dated 24.01.2011. Thereafter, the State of Maharashtra issued Government Resolution dated 18.03.2014 sanctioning salary grants only for the employees of Balkalyan Nagari keeping aside the other similarly placed Children Homes of other similar NGOs or voluntary organizations.

9. It is, therefore, contended that these left over NGOs preferred various representations to the government authorities, however, no decision was ever taken. Therefore, again Writ Petition Nos.2861/2012 (*Maharashtra Mahila Prashikshan Bal*

Sadan vs. The State of Maharashtra and others) and 2863/2012 (*Mahila Va Balvikas Swayanasevi Sanstha Karmachari Sangh vs. The State of Maharashtra and others*) came to be filed before this Court at Aurangabad Bench. This Court vide explicit and well-articulated judgment dated 02.05.2014 held that the Government is required to take the decision in respect of salary grants of such all employees working in Maharashtra. This Court observed that the said petitioner had approached this Court in Writ Petition No.10504/2010 and this Court vide order dated 27.01.2011 directed the State Government to take decision expeditiously on the issue raised in the said petition. Therefore, this Court directed the Chief Secretary of State of Maharashtra to convey a joint meeting of the Principal Secretary of Women and Child Development Department and the Principal Secretary of Finance Department in consonance with the observations made in judgment and order passed in WP No.990 of 1993 (Principal Seat) (*supra*) for taking appropriate decision.

10. In view of the above facts, now the petitioners-employees have again approached to this Court for issuance of necessary directions to the respondent State Authorities for

releasing the salary grants.

REPLY OF THE RESPONDENT GOVERNMENT

11. The reply cum affidavits came to be filed on behalf of the State Government. According to the Government, it has neither advertised nor called for applications from NGOs to run Children Homes. They themselves approached and expressed willingness to register and run Children Homes /balgruhas. As per the directions of this Court in WP No.2861/2012 (supra), the Chief Secretary of State Government held a meeting on 26.05.2014 and the decision was taken to reject the proposal of the Commissioner, Women and Child Development Department regarding salary grants and grants for building rent. The State Government is providing grant in aid (non salary) to support the organizations to run Balgruhas at the rate of Rs. 2000/- per month per child out of which Rs.1500/- is to be paid for maintenance of children and Rs.500/- is towards the other administrative expenses including salary of staff. The appointment of staff was solely made by the organizations and not by the State Government, hence no question arises for providing salary grants to them. Therefore, such staff cannot be treated as Government

Servants and hence, is not entitled for pay scale prescribed for regular government servants.

12. According to the State Government, even in Government Resolution dated 29.07.2006, it is clearly mentioned that no salary grants shall be provided. The organization or the NGOs have been registered under the Societies Registration Act, 1860 and they are entitled to receive donations from the society, therefore, it is their responsibility to raise funds and fulfill the requirement and needs of the organization. According to the State Government, the State of Maharashtra has highest number of Children's Homes i.e. 994 homes with 82,859 inmates capacity receiving non salary grant in aid from the government. Therefore, there shall be huge financial burden on the State if salary grants are provided to such NGOs.

13. It is also submitted by the State Government that many institutions do not have even single admission at the moment. Many institutions were found without students, staff during surprise visit by the officers of the Government. Most of such institutions are not functioning. Merely because these homes have been recognized, it does not necessarily mean that

they have been granted permission for receiving salary grants. All these institutions have submitted an undertaking that they will run institutions on their own funding.

14. It is also submitted by the State Government that this Court may not issue directions to the State to provide salary grants to such employees of the NGOs as salary and allowances of the staff of NGOs is a matter of contract between the NGOs and staff members and as such, same is not within the domain of public view. There is no provision in the new JJ Act of 2015 nor the Rules made thereunder to pay staff salary as being paid to the Government aided Balgruhas. The respondent State relied upon various judgments delivered by Hon'ble Apex Court to justify that equal pay can not be granted as of right and it is for the employees to show that they fulfill all criterias for claiming such reliefs. Therefore, the respondents authorities have prayed for dismissal of the instant writ petitions.

THE SCHEME OF CHILDREN HOME UNDER THE NEW JJ ACT, 2015.

15. In 2000, India introduced a new Juvenile Justice (Care and Protection of Children) Act, 2000 which governs both

children in conflict with the law and children in need of protection. While the said Act of 2000 is the Central Government legislation, but implementation lies with the State Government which has powers to make rules, establish juvenile justice board, establish institutions and develop rehabilitation and social reintegration programs. Section 34 of the old Act of 2000 which is now introduced vide Section 50 of the new Act 2015, empowers the State Government to establish and maintain either by itself or through voluntary organizations the children's homes for children in need of care and protection and for their care, treatment, education, training, development and rehabilitation. These children homes shall be registered for the placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation.

16. The State Government may designate any Children's home as a home fit for children with special needs delivering specialized services depending upon requirement. The State Government may make rules for monitoring and management of children's home including standards and nature of services to be provided by them, based on the individual care plans for each

child. Section 53 of the new Act of 2015 which is analogous to Section 44 of the old Act of 2000, states that the services shall be provided by such children's home like food, shelter, clothing, and medical attention as per prescribed standard, appropriate education including supplementary education, special education and appropriate education for children with special needs. The services like skill development, occupation therapy and life skill education, mental health interventions, including counseling as per need of child, recreational activities including sports and cultural activities, referral services for education, vocational training, de-addiction, treatment for diseases where required and any other service that may reasonably be provided in order to ensure the well being of child. The children, who are being admitted to such institutions, require all that care and attention which the other children of the society being provided.

CONCLUSIONS:-

17. Article 39(f) of the Constitution of India mandates that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and

moral and material abandonment. Though this Article 39(f) is the part of the Directive Principles, this provision has been consistently read in conjunction with Articles 14 and 21 by the Hon'ble Supreme Court to impose a positive obligation upon the State. (Ref. *Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244, *Sheela Barse v. Union of India*, (1986) 3 SCC 596 and *Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1).

18. We find that under the scheme of law, the Children Homes must contain well educated, trained and experienced staff to provide aforesaid facilities or activities. To provide such activities, these children's homes or the institutions must recruit well educated and well trained/experienced staff. If proper well educated and trained staff is not appointed or recruited to carry out the aforesaid activities, then the purpose of the Act for which it is enacted shall be defeated. The creation of children's homes would be an empty formality if the children admitted there are not provided proper environment, treatment, education, nourishment, skill development and all that is prescribed under the Act and Rules.

19. The voluntary organizations or the Non-Government

Organizations are running these children's homes in the State of Maharashtra. They are registered and staffing pattern as well pay fixation is also prescribed by the State Government. To employ staff, these NGOs or voluntary Organizations are required to recruit well educated, trained or experienced staff. For the purpose of salary, these NGOs are depending upon the donations. Thus, quality and efficiency of the staff of children homes will be depending upon the payment or salary structure maintained by these NGOs. Naturally, they are not expected to make salary payments at par with those of Government employees working on similarly posts and performing same duties. At the same time, the Government cannot absolve or run away from its duties and expectations as per Articles 37, 38 and 39 of the Constitution of India.

20. This Court already in Writ Petition No.2861/2012 (supra) observed that such employees are required to be treated equally at par with the employees working in the State Government's similarly placed Children's Homes and accordingly, had directed the Chief Secretary of the State to call a joint meeting. Though the said exercise undertaken was not

successful, however, the reasons coming forth for not providing salary grants to these children's homes are not appropriate and satisfying.

21. We, at this juncture, would like to place on record that children, who are in need of care and protection, are placed in children home for specific purpose. The Juvenile Justice (Care and Protection of Children) Act, 2015 aims to create separate and special place for the welfare and overall development of the juvenile. If these helpless children are not given proper attention and education, then certainly they may become victims of socio-economic issues like poverty, unemployment, health deterioration, crime and violence and many more. While dealing with this important matter concerning about child development, we would like to quote from Mr. Wess Stafford, Former President and CEO of Compassion International and advocate for children: *“If we nurture the dreams of children, the world will be blessed. If we destroy them, the world is doomed.”*

22. This Court at principal seat in Writ Petition No.990 of 1993 (Original Civil Jurisdiction) (supra) and in WP No. 2861/2012 (Aurangabad Bench) (supra), while giving directions

to the State Government has in clear unequivocal terms observed that such employees are required to be paid salary by sanctioning them salary grants by the State Government. The staff unless and until adequately paid is not expected to perform well and as such, will certainly disturb the administration as well as performance of the children homes. The well educated and trained staff is necessary at each Bal Gruha. The children admitted in such Bal Gruha are not expected to achieve heights in their carrier or build strong future if they are not provided proper attention, care, nourishment, education etc..

23. The Hon'ble Apex Court in ***Sampurna Behura vs. Union of India reported in (2018) 4 SCC 433***, had an occasion to deal with the Public Interest Litigation relating to primary responsibility on the State to ensure that the needs of children are met and their basic human rights are protected. The Hon'ble Supreme Court observed that children's rights are not charity, but constitutional obligation and the State cannot plead lack of funds and administrative difficulty. In the said judgment, in sub-para Nos.11 and 13 of para No.9.5 in Conclusions and Directions, it is observed as under:-

“11. *The management of Child Care Institutions is extremely important and State Governments and Union Territories would be well advised to ensure that all such institutions are registered so that children can live a dignified life in these institutions and issues of missing children and trafficking are also addressed.*”

“13. *The JJ fund is a bit of an embarrassment with an absence of an effective response from the State Governments and the Union Territories. If financial resources are not made available for the welfare of the children we shudder to think what could be better utilization of the funds.*”

24. It is also observed and directed in above stated judgment by the Hon’ble Apex Court that the child care institutions be managed and maintained in a manner that is conducive to the well being of children in all respects including nutrition, education, medical benefits, skill development and general living conditions.

25. We are conscious of the fact that the directive principles of State Policy enshrined under the Constitution of India are not enforceable in the courts of law. However, at the same time, it does not mean that they cannot create obligation or duties binding on the State. If the directive principles impose any obligation or duties on the State, the State would be bound by the

Constitutional mandate to carry out such obligation or duties, even though no corresponding right is created in any one which can be enforced in a court of law. (Ref: *Minerva Mills Ltd. Versus Union of India AIR 1980 SC 1789 (Per Bhagwati J)*.)

26. The Hon'ble Supreme Court in *Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161*, has authoritatively held that where the State is under a constitutional or statutory obligation to ensure basic human dignity, it cannot avoid its responsibility on the ground that such obligations are being discharged through voluntary agencies. The Court emphasised that the ultimate responsibility to ensure compliance with welfare legislation rests with the State.

27. We are disappointed with the way this issue was dealt with by the State Government despite specific directions given by this Court in WP No.2861/2012 (supra). We, therefore, expect from the State Government again to consider the issue as per the importance and conclusions drawn by the Hon'ble Apex Court as well as this Court in the respective judgments discussed herein above.

28. We feel that the State Government shall create or

select or identify at least one children home run by voluntary organization in each district of the State which is having good capacity and also having well needed infrastructure, well educated and trained staff and complying with all requirements as per law.

29. The State Government is, therefore, required to deal with this issue by giving priority and shall consider to frame an appropriate policy, within a period of SIX MONTHS from today, for providing salary grants to deserving NGOs which are functioning strictly in compliance with the provisions of the new JJ Act, 2015.

30. With these observations, the Writ Petitions are disposed of.

31. Before parting, we observe that when the State of Maharashtra is extending financial assistance to poor women in the State under several welfare schemes such as Ladki Bahin Yojana, it cannot, without any reasonable classification or justification, deny or delay financial aid to institutions catering to children in need of care and protection. Such allocation of resources must satisfy the test of reasonableness under Article 14.

The State is under higher constitutional obligation to prioritise the welfare, education, and rehabilitation of children, failing which the very object of the Juvenile Justice law would stand defeated and the larger societal interest would be seriously jeopardised. We hope and trust that the State Government would act positively in this regard.

kps (SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)