

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16352 OF 2024

1. Nashik Jillha Vidhayak Karya
Samiti Satana
 2. Madhyamik Ashram Shala, Moholangi
-Petitioners

Versus

1. Lahanu Deochand Sonawane
 2. The Project Officer, Integrated Tribal
Development Project
 3. The Additional Commissioner, Tribal
Development Department
 4. Machindranath Vishnu Ahire
-Respondents

WITH

WRIT PETITION NO. 8740 OF 2024

Machindranath Vishnu Ahire

....Petitioner

Versus

1. Lahanu Deochand Sonawane
 2. Yashwant Panditrao Patil
 3. Madhyamik Ashramshala, Moholangi
 4. The Project Officer,
Integrated Tribal Development Project
 5. The Additional Commissioner,
Tribal Development Dept.
-Respondents

WITH

INTERIM APPLICATION (ST) NO. 24870 OF 2024

IN

WRIT PETITION NO. 8740 OF 2024

Vijay Panditrao Patil
Through President,
Nashik Jillha Vidhayak Karya
Samiti Satana & Anr.

....Applicants

IN THE MATTER BETWEEN

Machindranath Vishnu AhirePetitioner
Versus
Lahanu Deochand Sonawane & Ors.Respondents

Mr. C. G Gavnekar, for Petitioner.

Ms. Pranita Pramod Hingmire, for Respondent.

Mr. S.D. Chipade, AGP for State.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 7, 2026

JUDGEMENT:

Context and Factual Background:

1. Writ Petition No.16352 of 2024 is filed by Petitioner No.1, Nashik Jilla Vidhayak Karya Samiti, Satana (**"Samiti"**) and Petitioner No.2, Madhyamik Ashram Shala, Moholangi (**"School"**) (collectively, **"Petitioners"**), challenging an Order dated March 19, 2024 (**"Impugned Order"**) passed by the Learned School Tribunal, Nashik, by which, Respondent No.1, Lahanu Deochand Sonawane (**"Sonawane"**) has been asked to be reinstated as the Head Master of the School, with all attendant benefits accruing from such position, with effect from December 31, 2011, which was the date on which Sonawane's

appointment as the Head Master had been reversed, making him an Assistant Teacher in a different school.

2. The Samiti runs multiple schools. Sonawane and Respondent No.4, Machindranath Vishnu Ahire (**“Ahire”**), are two teachers in the employment of the Samiti.

3. Sonawane had been appointed as an Assistant Teacher in one of the schools with effect from November 16, 1992, in a leave vacancy between June 14, 1993, and May 31, 1994, and thereafter, on a permanent vacancy from the academic year 1995-96.

4. Ahire had been transferred from a secondary school to a primary school on June 1, 2001, which led to Ahire filing Writ Petition No.565 of 2002 (**“WP 565”**) in this Court. Meanwhile, in 2004, Sonawane came to be promoted as the Head Master in the School. Disposing of WP 565, this Court directed the Samiti to consider Ahire’s representation on seniority in accordance with law.

5. The Samiti contends that pursuant to such order disposing of WP 565, Ahire’s representation was considered and that it led to Sonawane being reverted from the post of Head Master to Assistant Teacher, with Ahire instead being promoted to the post of Head Master in the School. Therefore, after seven years of having been the Head

Master of the School, Sonawane was reverted to being an Assistant Teacher, by an order dated December 31, 2011 (*“Reversion Order”*).

6. Sonawane went on leave and preferred an appeal before the Learned School Tribunal, challenging the Reversion Order. There was an *ad interim ex parte* stay on the Reversion Order until the Samiti filed its reply. Eventually, over 12 years later, on March 19, 2024, Sonawane’s appeal came to be allowed by way of the Impugned Order, holding Sonawane to be entitled to all the benefits attached to the post of Head Master from December 31, 2011 until the date of his retirement. The Impugned Order held that Sonawane had been inflicted with a major penalty without due process, and his removal from the position of Head Master, without giving him a hearing was bad in law.

7. The key point urged by the Petitioners is that the Learned School Tribunal completely erred in ignoring the fact that the Reversion Order, which had been impugned, had been passed pursuant to the directions of this Court passed while disposing of WP 565. It is contended that the finding that Sonawane had been inflicted with a major penalty without following due process is entirely incorrect, inasmuch as it was not even the Samiti’s case that Sonawane had to be subjected to any penal proceedings. According to the Samiti, all that it

had done was to accept the representation of Ahire on the *inter se* seniority and that led to passing of the Reversion Order.

Contentions of the Parties:

8. I have heard Mr. C. G. Gavnekar, Learned Advocate for Petitioner, Ms. Pranita Pramod Hingmire, Learned Advocate for the Respondent and Mr. S. D. Chipade, Learned AGP for the State, and have examined the material on record with their assistance.

9. Mr. Gavnekar, on behalf of the Petitioners would urge that after the Reversion Order, Sonawane simply did not resume duty either as an Assistant Teacher or as a Head Master, and simply went on leave, absenting himself from attending the School, despite having been a beneficiary of an *ad interim* stay order. The upshot of the submission is that a person who has chosen not to report to duty does not deserve to be paid the benefits of the Head Master as directed in the Impugned Order.

10. Mr. Gavnekar would submit that this Court can take notice of the fact that Sonawane has not shown up to work, in exercise of its extraordinary jurisdiction, and hold that a person who has not done any work cannot be given benefits as directed in the Impugned Order.

11. Ms. Hingmire, Learned Advocate for Sonawane would contend that Sonawane had not been given any hearing when the Reversion Order was passed. It is contended that the Reversion Order simply alludes to the High Court Order disposing of WP 565, but there is not a whisper of reasoning in the Reversion Order and, indeed, there is not even a mention of Sonawane having been given notice or being heard when *inter se* seniority was considered, purportedly pursuant to the High Court Order in WP 565. Therefore, her submission is that the Reversion Order was indeed baseless, without due process, and ought not to have been passed. Therefore, she would contend, the outcome in the Impugned Order is not worthy of interference by the Writ Court.

12. It is also contended that Sonawane was correctly made the Head Master in 2004 and had nothing to do with the transfer of Ahire from a secondary school to a primary school, which led to WP 565 and the order permitting Ahire to make a representation for the Samiti's consideration. Besides, Sonawane was not even a party to WP 565. When Sonawane's rights were being vitally affected, he ought to have been heard.

13. Ms. Hingmire also contends that there are two factions fighting over control of the Samiti and Sonawane has been caught in that crossfire; towards this end, she would point to an Intervention

Application filed by the Petitioners in the other captioned Writ Petition filed by Ahire. As it transpires, Ahire has named certain office bearers belonging to the other faction in his Writ Petition and the office bearers who are pursuing the Samiti's Petition seek to intervene.

Analysis and Findings:

14. Having heard the parties and having examined the material on record with their assistance, I am of the view that no case worthy of interference in exercise of the extraordinary Writ jurisdiction of this Court has been made out by the Petitioners.

15. It is an admitted position that the Reversion Order is not a reasoned order. It is evident that when considering Ahire's representation, the Petitioners did not afford Sonawane, who had served for seven years as the Head Master, any opportunity of being heard. What we have on hand is a simple summary statement that the Reversion Order was necessitated by the consideration of the representation by Ahire. Even if this were to be accurate, the reasons for it are not discernible from the record. Whether Ahire could have been made the Head Master in any other School, or whether Sonawane, having served as the Head Master, could have been accommodated as the Head Master in any of the other multiple Schools, and whether there

were others who were senior to him in other schools are all facts at large, which the Writ court cannot adjudicate in the first instance. What is clear is that the Samiti demoted Sonawane and also moved him out of the School to another school as an Assistant Teacher.

16. Mr. Gavnekar's contention that Sonawane absented himself after the Reversion Order and did not carry out any functions either as a Head Master (despite benefiting from the stay order on the Reversion Order) or as an Assistant Teacher (upon expiry of the stay order), has to be rejected. Again, it is not for the Writ Court to conduct a trial in the first instance as to what actually transpired – whether Sonawane reported as Head Master upon obtaining a stay order or whether he was prevented despite reporting to duty. If it were indeed true that Sonawane absented himself despite obtaining a stay order or even after the proceedings were underway, there is not a whisper of any disciplinary action having been initiated by the Petitioners for such alleged dereliction of duty. Whether or not he reported for work is a separate and distinct cause of action, which entitled the Samiti to initiate action in pursuit of such cause of action, but evidently, nothing of that sort had been resorted to.

17. This is a facet of events after the Reversion Order was passed, which cannot be germane for adjudicating the validity of the

Reversion Order. If it is germane for not paying benefits, that is a separate and new cause of action, the pursuit of which is not at all discernible. If this Court were to take cognisance of such submissions across the bar, it could also have the pernicious effect of reviving or taking up a cause of action that is already barred by limitation.

18. Suffice it to say, Sonawane pursued the cause of action arising out of the Reversion Order that was passed without hearing him and cannot be accused of sleeping over his rights. In fact, Sonawane filed an application for temporary injunction on January 6, 2012 and got an ex parte injunction on the same day. For non-compliance with this stay order, Sonawane also filed a contempt application on April 12, 2012 before the Learned School Tribunal for non-compliance by the Samiti with the interim stay obtained on January 6, 2012. Therefore, indeed, he acted upon the stay order that he had received. The Learned School Tribunal kept the contempt application pending, and after the Impugned Order was passed, disposed of it as having become infructuous since Sonawane had already prevailed in the final hearing of the appeal.

19. It is evident that Sonawane had been made the Head Master of the School on February 1, 2004, and until Ahire's representation came to be allowed on December 12, 2011, Sonawane had functioned as the Head Master of the School. Ahire had been appointed

in one of the schools of the Samiti with effect from November 16, 1992, for a temporary period until May 31, 1993. Sonawane had been appointed with effect from June 14, 1993 for a period until May 31, 1996. It is also evident that when WP 565 (and indeed WP 566 of 2002 filed by another Teacher in the employment of the Samiti) came to be disposed of by an Order dated June 30, 2009 ("**DB Order**"). The Learned Division Bench of this Court essentially held that the relief claimed by Ahire in relation to his pay had become infructuous, inasmuch as the orders transferring Ahire and asking him to teach primary classes instead of secondary school had been rescinded. As regards the seniority, the DB Order granted liberty to Ahire to make a representation to the Samiti and also directed that such representation must be decided within three months of the representation being made. While this order was passed on June 30, 2009, evidently no action appears to have been taken until February 3, 2011. It appears from a legal notice issued by lawyers of Ahire to the Samiti that a grievance was made that despite a detailed representation having been made on January 12, 2010, asking for the seniority to be accurately determined, there had been no action on the part of the Samiti, despite repeated requests and reminders. Disposal of the representation is claimed to be the cause of the Reversion Order, but there is nothing in it to show any reasoning.

20. The Reversion Order merely states that pursuant to the decision of the High Court in WP 565, Sonawane was being transferred with a reversion as an Assistant Teacher to Madhyamik Ashramshala, Jad, Taluka Baglan, Nashik. Sonawane was directed to hand over charge as soon as he received the Reversion Order and was directed to join duties in the other School with effect from January 2, 2012. On the same date, another order was passed, titled "*Transfer Order with Promotion*", to Ahire asking him to take charge as the Head Master in the Moholangi School, displacing Sonawane, with no assessment of issues and facts in the form of a reasoned order.

21. The legal validity of the Reversion Order is what was questioned in the appeal before the Learned School Tribunal. The Impugned Order deals with the merits of that appeal. It would not be possible for this Court to import events and developments subsequent to the Reversion Order to determine whether the legality of the Impugned Order deserves to be upheld. It is the Samiti's own choice not to have acted against Sonawane despite its current contention that Sonawane had abandoned his job. It is apparent that he even filed a contempt application, which would only indicate that he presented himself to resume work and was deprived of the opportunity to do so.

22. The submissions made on behalf of the Samiti that Ahire had been appointed on November 13, 1992, with an appointment order taking effect on November 16, 1992, thereby rendering him senior to Sonawane, who had been appointed on June 12, 1993, with effect from June 14, 1993, are matters of fact that ought to be dealt with while determining seniority among the two competing teachers for the post of Head Master. I am unable to accept that it is the role of the Writ Court to embark upon such an exercise and conduct a trial on such pleaded issues when the Samiti has done nothing of the sort in all these years. Despite repeated requests for some pointer in the record to indicate a consideration of these facts, it is apparent that there is nothing on the record explaining and justifying the basis on which the seniority had been fixed and the manner in which the representation made by Ahire was found worthy of acceptance by the Samiti.

23. It was contended before the Learned School Tribunal by the Additional Commissioner, Tribal Development Department, Nashik, that Ahire had been appointed on a clear and vacant post with effect from November 16, 1992, and had the qualification of B.A. and B.Ed. and being a Trained Graduate Teacher, he was appointed to a permanent post unlike Sonawane, who had been appointed in 1993 on a temporary leave of vacancy, with his appointment on a clear vacancy

coming about only in 1995-1996. It was contended that Ahire's appointment was merely a correction of the seniority list. Ahire was indeed a party to the proceedings before the Learned School Tribunal, and he too joined issue in the appeal.

24. Having heard the parties, the Learned School Tribunal went on to hold that the issue of seniority was wholly irrelevant while considering the appeal. The promotion of Sonawane as the Head Master in 2004 had remained uncontested all the way until the Reversion Order, and according to the Learned School Tribunal, the issue of seniority ought not to be a factor for consideration in the appeal. The issue for consideration was whether Sonawane had been demoted without conducting a proper enquiry. Therefore, it was held that the Reversion Order was bad in law. It was indeed held that the reduction in rank of Sonawane deserved to be set aside.

25. The Impugned Order passed by the Learned School Tribunal has treated the Reversion Order as an order imposing a major penalty without following due process for imposition of penalty. However, the absence of any initiation of any punitive proceedings on the premise that the Reversion Order was merely a correction of a seven-year old mistake cannot be adjudicated for the first time in this Court. Without a reasoned order justifying the Reversion Order, the

unexplained reversion of a Head Master of seven years to an Assistant Teacher (except for attributing it to WP 565) and that too to another school, can indeed be regarded as punitive. Without anything to show how Ahire's representation was dealt with, the Learned School Tribunal's view that the action taken in respect of Sonawane was effectively a punitive measure cannot be faulted.

26. The Impugned Order records that Sonawane possessed the qualifications of M.A. and B.Ed. and had been a Trained Graduate Teacher who was working as an Assistant Teacher in the School right since 1992 all the way until January 2004. It was found that on the basis of his blemishless service record, Sonawane had been promoted to the post of the Head Master on February 1, 2004. Since then, he had been acting as the Head Master without any challenge or dispute in any Court or forum about his position. Even if one assumes that the transfer of Sonawane to an Assistant Teacher with effect from January 2012 was pursuant to the representation of Ahire being accepted, in the absence of anything to show Sonawane was heard and the issues were dealt with, the complete and abject breach of natural justice is writ large on the face of the record. Sonawane was not even a party to WP 565 or WP 566. Therefore, the Reversion Order was passed entirely behind his back.

27. It is seen from the record that both Sonawane and Ahire belong to the Scheduled Caste category. That Sonawane's appointment as the Head Master with a promotion on February 1, 2004, was itself illegal is a realisation that is said to have dawned on the Samiti only at the end of 2011. Without a whisper of due process on the record to indicate so, it is not for the Writ Court to conduct a trial as to who is senior.

28. The appeal in question being directed against the Reversion Order, the Learned School Tribunal held that Rule 31 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("*MEPS Rules*") which deals with the classification of penalties, would point to a demotion and a reduction in rank falling within the ambit of "*major penalties*". Rule 33 of the MEPS Rules, which prescribes a procedure for inflicting major penalties, had not at all been followed. Indeed, the Learned School Tribunal was told that Sonawane had already retired from service on March 31, 2021. This was adjusted for by the Learned School Tribunal directing that while the appeal deserved to be allowed with Sonawane being reverted to the rank of Head Master, Sonawane would be entitled to all the benefits attached to the post of the Head Master from December 31, 2011 (the date of the Reversion Order) until March 31, 2021 (the date of retirement). The

Samiti was, therefore, directed to pay the entire benefits to Sonawane, which would be attached to the post of the Head Master.

29. In my opinion, even while the Samiti is purporting to have been deferential to the DB Order by examining the validity of Ahire's representation, at the least, the Samiti ought to have given Sonawane notice of such representation and heard him in order to enable him to explain his say. Admittedly, there are changed circumstances in the management of the Samiti, and it appears that the faction that preferred Ahire backed him, while the faction that preferred Sonawane backed him.

30. It is equally startling that the Samiti did nothing if it truly believed that Sonawane had abandoned his job, as is now being contended. Indeed, there is no discussion in the DB Order on the merits of seniority, and all that the DB Order has said is that the Samiti must decide the representation made by Ahire in accordance with law. The consideration in accordance with law not being perceivable from the record, the finding that the measure was punitive does not lend itself to interference in exercise of the discretionary Writ jurisdiction of this Court.

31. All that the DB Order had stated was to examine the pay scales on the basis of seniority and the treatment of Ahire as a Trained Graduate. The complex construct of Schedule 'F' to the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ("**MEPS Act**") and its application to the respective contenders finds no mention whatsoever in any articulation in the record.

32. While it may be arguable that the Learned School Tribunal may not be correct in its observation that the issue has no nexus whatsoever with seniority, it is equally arguable that the nexus to seniority ought to have been articulated by the Samiti and ought to be writ large on the record . It suited the Samiti that after 2011, the appellate proceedings meandered over twelve years and eventually led to the passing of the Impugned Order. During this period, neither did the Samiti have to deal with a competing contender, nor did it have to pay any salary or wages to Sonawane. In these circumstances, it is not equitable to exercise discretion of the Writ Court to interfere with the Impugned Order – an intervention on the ground of equity cannot emphasise and inflict inequity either.

33. In these circumstances, the Samiti's proposition that the Learned School Tribunal applied inapplicable provisions by treating the demotion as a penalty while the demotion was merely correction of a

seniority error made in 2004, in my opinion, the peculiar factual matrix of the case does not lend itself to such a simplistic summarisation as sought to be made.

34. In these circumstances, I am disinclined to exercise the Writ jurisdiction to interfere with the Impugned Order. I also considered whether it would be appropriate to remand the matter either to the Learned School Tribunal or back to the Samiti, asking for a decision to be made with reasons on the *inter se* seniority between Sonawane and Ahire. However, I am convinced that such an approach would be absurd and unwarranted at this distance of time – one and half decades since Sonawane’s displacement after serving as Head Master for seven years, it is not appropriate for a writ to be issued to permit this lacuna to be dealt with all over again. If the Samiti were indeed right, there ought to have been something to show how it had dealt with Ahire’s representation and how Sonawane had effectively had an opportunity to present his say. The internal politics of the Samiti is writ large, rendering such an approach meaningless.

35. Therefore, without any interference with the Impugned Order, the Writ Petition is hereby *finally disposed of*.

36. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]