IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.6322 OF 2013
…
Mr.Chandrakant Hanjarimal Rathod & ors. ...Petitioners
v/s.
The State of Maharashtra & ors. ...Respondnts
WITH
WRIT PETITION NO.4791 OF 2008
..
Mr.Vijay Shankar Bhinge & anr. ...Petitioners
v/s.
Parvatibai Tukaram Tupe & ors. ...Respondents
…
Mr.S.G.Karandikar for the Petitioners.
Mr.A.B.Vagyani, GP a/w Mr.A.I.Patel, AGP for the State.
...
CORAM : A.S.OKA &
A.A. SAYED, JJ.
DATED : 19 JULY 2016

P.C.:

The Petitions have been already disposed of. However, the Petitions were placed on board for issuing certain directions regarding the functioning of the Maharashtra Revenue Tribunal.

2. The Maharashtra Revenue Tribunal has been established in accordance with sub-section 1 of Section 309 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”). On the earlier date, it was pointed out that large number of posts of the Members of the Maharashtra Revenue Tribunal in the State were vacant. Today, the learned Government Pleader states that the procedure for filling in all the vacant posts has been completed and the notification is likely to be issued very shortly.

3. We have perused the provisions of Chapter-XV of the said Code. The Maharashtra Revenue Tribunal not only exercises various powers under the said Code, but also under other enactments such as the Bombay Tenancy and Agricultural Lands Act, 1948. The Maharashtra Revenue Tribunal, thus, exercises very important functions and duties. Therefore, it is an obligation of the State to ensure that no post, whether of the President or Member of the Tribunal, remains vacant. It is, therefore, absolutely necessary that the process of appointment should be initiated by the State Government at least six months prior to the date on which the vacancy is likely to occur. In case the vacancy occurs for other reasons such as resignation etc., the State Government has to start the process of filling the vacancy within 15 days from the date on which the vacancy occurs.

4. In short, the State Government shall ensure that the posts of the Chairman and Members of the Maharashtra Revenue Tribunal should not remain vacant at all. Accordingly, we direct that the process of appointment of the President or the Member, as the case may be, shall be initiated at least six months prior to the date on which the vacancy is likely to occur. In the event, the vacancy occurs due to resignation or other such reason, the process shall be started within a period of two weeks from the date on which the vacancy occurs.

5. Our attention is invited to Section 325 of the said Code, which is the part of Chapter-XV of the said Code. The title of Chapter-XV is `Maharashtra Revenue Tribunal'. Section 325 reads thus:

> "325.Rules.
> (1)The State Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Chapter for carrying into effect the purposes of this Chapter.
>
> (1) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely
>
> (a)the qualifications (including age) of the President and other members of the Tribunal;
>
> (b)the period of office and the terms and conditions of service of the President and other members of the Tribunal;
>
> (c)the qualifications of the Registrar and Deputy Registrars;
>
> (d)any other powers of a Civil Court which may be vested in the Tribunal."

6. Our attention is also invited to the Maharashtra Land Revenue (Revenue Tribunal) Rules, 2007. We have perused the said Rules. The said Rules only lay down the qualifications for the post of the President and the Members of the Tribunal and the period of office as well as terms and conditions of their service. However, rule making power has not been exercised by the State Government for laying down the procedure for

appointment of the President and the Members. In our view, under sub-section (1) of Section 325, the State Government can exercise the rule making power by making the rules governing the procedure of the appointment of the President and the Members of the Maharashtra Revenue Tribunal. We direct the State Government to consider whether rules should be framed in exercise of powers under sub-section (1) of Section 325 on this aspect. If the Rules are framed, it can provide for commencement of process of filling in vacancies within a specific time. The State Government shall take appropriate decision on the issue of framing the rules on the aforesaid aspect within a period of two months from today.

5. In the meanwhile, the State Government shall issue necessary Government Resolutions or orders in terms of directions contained in this order.

6. For reporting the compliance, the Petitions shall be listed under the caption of "Direction" on 30 September 2016.

(A.A. SAYED, J.) **(A.S.OKA, J.)**