

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 1847 OF 2017

Dilip S/o Dattatraya Pathak,
Age : 54 years, Occu. Service,
At Present working as Vice-Principal of
Janata Vidya Mandir, Madhyamik Va
Uccha Madhyamik Vidyalaya,
Murud, Tq. & Dist. Latur.

... Petitioner

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-32.
- 2] The Deputy Director of Education,
Latur Division, Latur, Tq. & Dist. Latur.
- 3] The Education Officer (Secondary),
Zilla Parishad, Latur,
Tq. & Dist. Latur.
- 4] Rural Education Societies,
Janata Vidya Mandir, Madhyamik Va
Uccha Madhyamik Vidyalaya,
Murud, Tq. & Dist. Latur.
Through its Secretary / President
- 5] Rural Education Societies,
Janata Vidya Mandir, Madhyamik Va
Uccha Madhyamik Vidyalaya,
Murud, Tq. & Dist. Latur.
Through its Principal
- 6] Sudhir S/o. Kishanrao Kanase,
Age : 51 years, Occu. Service,
R/o. A/P. Murud, Tq. & Dist. Latur.

... Respondents

.....
Shri. Bhausahab B. Bhise, Advocate for the petitioner
Shri. S. G. Karlekar, AGP for respondents No. 1 to 3
Shri. V. V. Deshmukh, Advocate for respondents No. 4 and 5
Shri. S. S. Thombre, Advocate for respondent No. 6
.....

WITH

WRIT PETITION NO. 14807 OF 2017

Sudhir S/o Kisanrao Kanse,
Age : 52 years, Occu. Service as Vice-Principal,
R/o. Murud, Tal & District Latur. ... Petitioner

VERSUS

- 1] The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai.
- 2] The Director of Education,
Maharashtra State, Pune.
- 3] The Deputy Director of Education,
Latur Division, Latur.
- 4] The Education Officer (Secondary),
Zilla Parishad, Latur.
- 5] The Headmaster,
Janata Vidya Mandir Secondary and
Higher Secondary School, Murud,
Tal. & District Latur.
- 6] Rural Education Society,
Murud, Tal. & District Latur,
Through its Secretary.
- 7] Dilip S/o Dattatraya Pathak,
Age : 53 years, Occu. Service,
R/o. Murud, Tal. & District Latur.

- 8] Namdeo S/o Balasaheb Pawar,
Age : 58 years, Occ. Retired,
R/o. Murud, Tal. & Dist. Latur. ... Respondents

.....
Shri. S. S. Thombre, Advocate for the petitioner
Shri. S. G. Karlekar, AGP for respondents/State
Shri. V. V. Deshmukh, Advocate for respondent No. 5
.....

WITH

WRIT PETITION NO. 742 OF 2017

- 1] Rural Education Societies,
Janata Vidya Mandir Madhyamik Va
Uccha Madhyamik Vidyalaya,
Murud, Tq. & Dist. Latur,
Through its Secretary / President.
- 2] Rural Education Societies,
Janata Vidya Mandir Madhyamik Va
Uccha Madhyamik Vidyalaya,
Murud, Tq. & Dist. Latur,
Through its Principal ... Petitioners

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-32.
- 2] The Deputy Director of Education,
Latur Division, Latur, Tq. & Dist. Latur.
- 3] The Education Officer (Secondary),
Zilla Parishad, Latur,
Tq. & Dist. Latur.
- 4] Sudhir Kishanrao Kanase,
Age : 51 years, Occu. Service,
R/o. A/P. Murud, Tq. & Dist. Latur. ... Respondents

.....
Shri. V. V. Deshmukh, Advocate for the petitioner
Shri. S. G. Karlekar, AGP for respondents No. 1 to 3
Shri. S. S. Thombre, Advocate for respondent No. 4
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE OF RESERVING THE JUDGMENT : 23.04.2018
DATE OF PRONOUNCING THE JUDGMENT : 04.05.2018

JUDGMENT [PER A. M. DHAVALA, J.] :-

1. These three writ petitions involve common questions of law and facts. These petitions are commonly heard and are disposed of by this common judgment.

2. The issue is about seniority between Sudhir Kanse & Dilip Pathak relevant for the promotion to the post of Vice-Principal in the Higher Secondary School at Murud, Dist. Latur (R-5). We have heard Shri. B. B. Bhise, learned counsel for Dilip Pathak, Shri. S. S. Thombre, learned counsel for Sudhir Kanse, Shri. S. G. Karlekar, learned Assistant Government Pleader for Director & Dy. Director of Education and Shri. V. V. Deshmukh, learned counsel for Zilla Parishad and respondent No. 5 – High School. Since the parties have different status in different petitions, for the sake of convenience they are hereinafter referred to as per their names/posts.

3. Writ Petition No. 742 of 2017 is filed by the management – Rural Education Society for quashing of order dt. 10.01.2017 passed by Deputy Director of Education, Latur, granting approval in favour of Sudhir Kanse and a writ of mandamus to grant approval to the proposal sent by the petitioner-Society dt. 20.12.2016 for approval to the appointment of Dilip Pathak as Vice-Principal of the Janata Vidya Mandir Madhyamik Va Uccha Madhyamik Vidyalaya.

4. Writ Petition No. 1847 of 2017 is filed by Dilip Pathak challenging the order of Dy. Director of Education of granting approval to Shri. Kanse as Vice-Principal of the Janata Vidya Mandir Madhyamik Va Uccha Madhyamik Vidyalaya run by Rural Education Society dt. 10.01.2017 and he seeks quashing of the same and writ of mandamus for direction to Dy. Director of Education to grant approval to the proposal dt. 20.12.2016 forwarded by respondent No. 5 for grant of approval to his promotion as Vice-Principal.

5. In Writ Petition No. 14807 of 2017, Sudhir Kanse as the petitioner, by issue of writ of certiorari, seeks quashing of order dt.30.12.2016 of Education Officer (R-3) declaring Dilip Pathak as senior to him and claims declaration that the petitioner is senior to Mr. Pathak.

6. The factual matrix relevant for determining the controversy may be stated as follows:

6.1 Rural Education Society is running High School – Janata Vidya Mandir Madhyamik Va Uccha Madhyamik Vidyalaya, Murud, Dist. Latur. By common order dt. 14.07.1988, Shri. Pathak & Shri. Kanse were appointed as teachers in the Higher Secondary School. Admittedly, Shri. Kanse joined duties on 15.07.1988. The dispute is about date of joining of Mr. Pathak. As per earlier record, he joined duties on 18.07.1988. Since the seniority was to be counted from the date of joining, Mr. Kanse was shown as senior to Mr. Pathak. This position showing Shri. Kanse senior to Shri. Pathak continued till October – 2015. On 20.10.2015, Shri. Pathak filed an application for correction of his date of joining. He claimed that he had joined his duties on 15.07.1988 but the date of joining was wrongly shown as 18.07.1988 and same should be corrected in the records. The issue was referred to the Education Officer, who by order dt. 13.12.2016 held that, since Shri. Pathak was given salary from 15.07.1988, he had joined duties on 15.07.1988. Mr Pathak was senior to Shri. Kanse, who joined duties on 17.07.1988. (Actually Mr. Kanse has joined duties on 15.07.1988 and Mr Pathak and the Management were claiming that he was senior as he was born earlier to Mr. Kanse.) This change of date of joining of Mr. Pathak affecting the seniority *inter se* between Mr. Pathak and Mr. Kanse, led to the dispute regarding the appointment to the post of Vice-Principal.

6.2 In August-2013, Mr Kanse was appointed as Vice-Principal and proposal for his approval on the same was forwarded to Dy. Director of Education on 19.09.2013. Since the performance of Mr Kanse was not found satisfactory, the Education Committee passed a resolution and cancelled the promotion and wrote a letter to Dy. Director regarding withdrawal of earlier proposal of Mr. Kanse. It is relevant to note here that, one Pisal and one Kadam were senior, but they had refused to accept the post of Vice-Principal. Then proposal of Mr. P. S. Mundhe for promotion as Vice-Principal was forwarded on 28.1.2015. Though Mr Mundhe was junior, he was belonging to NT category. The post of Vice-Principal was not having separate pay scale nor it was referred to in Bindu Namavali. The Dy. Director gave hearing wherein Mr. Kanse denied the management's contention that his educational performance was not satisfactory. The Dy. Director of Education accepted the right of management to recommend for approval the names of eligible teacher as Vice-Principal as per 1981 rules. The proposal of Mr. Kanse & Mr Mundhe for promotion to the post of Vice-Principal was temporarily rejected on the ground of seniority. Mr Kanse preferred Writ Petition No.7386 of 2016 before this Court challenging the said order. Thereafter, Mr Kanse as Headmaster (respondent No. 4) without any authority from the management again sent his another proposal for the post of Vice-Principal. The management had preferred an application before the Dy. Director of Education requesting not to accord any approval disclosing to him that the order of Dy. Director was under

challenge before this Court. Besides the certification of the employees was also pending before the Education Officer. Meanwhile, Mr Pathak contended that, he and Mr Kanse had joined on the same day and he being senior in age, he was entitled to seniority. The Education Officer had accepted the contention of Mr. Pathak and allowed to correct the record to show that he had joined services on 15.07.1988 and was senior to Mr Kanse. After correction of the service record, the High School forwarded proposal of Mr Pathak to the Education Officer to determine the seniority and on 13.12.2016, Mr Pathak was declared senior to Mr. Kanse. On 15.12.2016, the management decided to appoint Mr.Pathak as Vice-Principal on the basis of his seniority and passed promotional order accordingly. By appointment order dt. 19.12.2016, Mr Pathak joined duties on 20.12.2016 as Vice-Principal. The said proposal was forwarded for approval to the Dy. Director of Education. On 10.01.2017, the Dy. Director of Education without considering the proposal of Mr. Pathak for promotion and though Mr Kanse's earlier proposal was rejected and was under judicial scrutiny of the High Court, granted approval in favour of Mr Kanse on 10.01.2017. (i) According to Management, the said order was illegal as Dy. Director of Education had no authority to review his own order. It was earlier rejected on merits. (ii) There was no subsequent proposal for appointment of Mr. Kanse. (iii) After getting the seniority fixed from the competent authority, the management had forwarded the proposal of Mr Pathak for approval which was not considered. The Dy. Director acted in excess of his jurisdiction and not *bona*

fide. Therefore, the management as petitioner sought quashing of the order dt. 10.01.2017 and grant of approval in favour of Mr.Pathak by Writ Petition No. 742 of 2017.

6.3 Mr Pathak has filed Writ Petition No. 1847 of 2018 for similar reliefs in his favour and the factual pleadings are similar to the writ petition by the management.

7. Mr Kanse filed Writ Petition No. 14807 of 2016. He claimed that, he joined the duties on 15.07.1988 while Mr Pathak joined the duties on 18.07.1988 and since then, no dispute regarding the seniority of Mr Kanse was raised by Mr Pathak or by the management. He claimed that on the basis of his seniority, he was appointed as Vice-Principal on 29.08.2013 and his services were approved by Dy. Director of Education on 10.01.2017. He claimed that, respondent No. 8 – Namdeo Pawar (Ex-Principal) has manipulated the record during his regime in 2016 and the Education Officer passed the order dt. 30.12.2016 on the basis of said manipulated record. The petitioner has filed criminal prosecution against Mr. Namdeo Pawar & Mr Dilip Pathak in the court of Judicial Magistrate First Class, Latur. After manipulation of record, incorrect seniority list was published so as to alter the long standing seniority of Mr. Kanse over Mr. Pathak. The Dy. Director of Education by order dt. 10.01.2017 had granted approval to the appointment of

Kanse as Vice-Principal from 29.08.2013. Mr Pathak had not joined on 15.07.1988 but had joined on 18.07.1988. The copy of attendance sheet discloses that, Mr Kanse had joined on 15.07.1988 and Pathak had joined on 18.07.1988 while 17.07.1988 was Sunday. In order dt. 31.08.1989, the Dy. Director had held that, Mr Pathak joined on 18.07.1988. The approval order dt. 31.08.1989 was not challenged and had attained finality. On 20.08.2013, Mr Kanse was held as senior most teacher and appointed as Vice-Principal and the proposal for his appointment was also sent. Mr Kanse had taken charge of his post on the said date i.e. 29.08.2013. Even while granting the scale of senior teachers, the date of appointments as shown above of Mr Kanse and Mr Pathak, were maintained. The Dy. Director of Education had granted approval to the promotion of Mr Kanse to the post of Vice-Principal subject to withdrawal of Writ Petition No. 7386 of 2016 filed before this Court. The amended seniority list is bogus. Mr Kanse has recorded his remark as 'not accepted' the same. Hence, he prayed for quashing of order of Education Officer dt. 13.12.2016 and seeking declaration that he is senior to Mr. Pathak.

8. Shri. V. V. Deshmukh, learned counsel for the Management and Shri. Bhise, learned counsel for Mr Pathak submitted that the

appointment of Vice-Principal was the right of the management and Dy. Director of Education was only supposed to grant approval to the proposal submitted by the management. In the present case, though under *bona fide* belief the Management sent proposal of Mr Kanse in the year 2013, the same was withdrawn by the management. The Education Officer on the application of Mr Pathak gave a finding dt.13.12.2016 that Mr Pathak was senior to Mr Kanse. Thereafter, the Management by resolution dt. 15.12.2016 permitted Mr Pathak to the post of Vice-Principal as he was senior most teacher. He had joined duties on 20.12.2016 and on the same day the proposal for approval of his promotion was also sent to the Dy. Director of Education. In the circumstances, the Dy. Director had no authority to consider the proposal sent by Mr Kanse himself and to grant the approval to his previous appointment as from 29.08.2013. His proposal was already withdrawn by the Management. The same was rejected by respondent No. 2 on 21.07.2015. The Dy. Director had no authority to review his own orders and, therefore, the impugned order of Dy. Director dt. 10.01.2017 approving the appointment of Mr Kanse from 29.08.2013 is illegal and bad in law and deserves to be quashed and set aside. It is also argued that, Mr Pathak is working as Vice-Principal and is the senior most teacher. His proposal could not have been rejected by the Dy. Director. The Dy.

Director has been suspended for his acts. Mr. V. V. Deshmukh, the learned counsel argued that the Writ Petition No. 742 of 2017 be allowed.

9. Mr Bhise, learned advocate for Mr Pathak in Writ Petition No. 1847 of 2017 has argued on similar line. He argued that, the date of joining of Mr Pathak was wrongly recorded in the office record. After enquiry, the Education Officer has given a finding that Mr Pathak had joined the duties on 15.07.1988 whereas; Mr Kanse joined the duties on 17.07.1988. Thus, Mr Pathak was held to be senior to Mr Kanse. The performance of Mr Kanse was not satisfactory. The Management has given due consideration to these facts and has appointed Mr Pathak as Vice-Principal and had sent the proposal. He had joined the duties as Vice-Principal. The said proposal ought to have been allowed. The Dy. Director had no jurisdiction to grant approval on the basis of proposal of Mr Kanse sent by himself.

10. Per contra, Shri. S. S. Thombre, the learned counsel for Mr Kanse, submits that Mr Kanse has joined on 15.07.1988 whereas; Mr Pathak had joined the duties on 18.07.1988. Accordingly, Mr Kanse was shown as senior to Mr Pathak in the High School

record right from 1988 till 2016. Meanwhile, approval to the appointment of Mr Kanse was granted from 18.07.1988. Muster and service book shows that, Mr Pathak had joined on 18.07.1988. There was subsequent alterations in the service record. Selection grade and benefit of 12 years were also given to Mr Pathak assuming his date of joining as 18.07.1988. Mr Kanse was appointed as Vice-Principal on 29.08.2013 which was not challenged by Mr Pathak. Subsequently, the record was manipulated for which Mr Kanse has filed FIR at the Police Station against Mr. Pawar (Ex-Principal) and Mr Pathak. The seniority of Mr Kanse was existing for a long period and Mr Pathak never challenged the same for 27 years. Challenge at such a late stage is not maintainable and the Education Officer erred in taking the cognizance of the challenge to the seniority at such a late stage. Mr Thombre also argued that, even on facts Mr Kanse was senior to Mr Pathak and there is documentary evidence to support this fact. The Management has no right to send the proposal of Mr Pathak as Vice-Principal and Dy. Director of Education has rightly accepted the previous proposal of the Headmaster in respect of Mr Kanse. The order of Education Officer holding Mr Pathak as senior should be quashed. He relied on the judgment of the Apex Court in the case of Ramchandra Shankar Deodhar and others Vs. State of Maharashtra and others reported in AIR 1974 SC 259, wherein it is

laid down that the writ petition is liable to be dismissed on the ground of laches if the concerned aggrieved person had not challenged the decision for two decades. There are following rulings taking similar view.

- (i) *Akshya Bisoi v. AIIMS* reported in 2018(3) SCC 391.
- (ii) *Vijay Kumar Kaul v Union of India* reported in 2012 (7) SCC 610.

11. In reply, Mr Bhise & Mr V. V. Deshmukh, learned advocates for Mr Pathak and the Management argued that, though there was delay in challenge, the petitioner had filed applications before the Management from time to time claiming that his date of birth is wrongly recorded in the office record. Besides, during 1988-2013, the issue of seniority was not relevant as there was no issue of promotion on the basis of seniority. When the issue of promotion was raised, Mr Pathak filed applications to claim his seniority and the Education Officer has conducted proper enquiry, gave proper opportunity and thereafter decided the seniority of Mr Pathak. It is also argued on behalf of Mr Pathak and the Management that the issues raised herein should have been agitated by Mr Kanse before the School Tribunal. The school Tribunal has jurisdiction u/s 9(1)(b) not only to decide the issue of supersession but also the issue of seniority. The

rulings cited by the parties will be discussed at the appropriate stage.

Sr.No.	Point	Finding
1	Whether the writ petitions are maintainable when the petitioners had alternate remedy of approaching to the School Tribunal?	In the negative.
2	Whether the issue of seniority could have been decided at such a belated stage?	To be determined by School Tribunal.
3	Whether Mr Pathak is senior to Mr Kanse?	To be determined by School Tribunal.
4	What Order?	The petitions are dismissed as per final order.

REASONS

12. After carefully considering the arguments advanced before us, we find that there is a serious issue of seniority between Mr Pathak and Mr Kanse.

13. Admittedly, Mr Kanse and Mr Pathak were appointed in a common process by orders dt. 14.07.1988. According to Mr. Kanse, he joined duties on 15.07.1988 whereas, Mr Pathak had joined duties on 18.07.1988. In support, he has produced following documents.

- (i) His report of joining (P. 55).
- (ii) Copy of Muster Roll (P. 61)
- (iii) Copy of order of approval (P. 66)

- (iv) He also relied on service book of Mr Pathak showing alteration of date 18.07.1988 to 15.07.1988 (P. 32).
- (v) Grant of Time Bound Promotion from 18.07.1988 to Mr Pathak (P. 34).
- (vi) Grant of Selection Grade to Mr. Pathak on 18.07.2012 (P.35)
- (vii) He has also produced his appointment order as Vice-Principal dt. 26.08.2013 (P. 67).
- (ix) Report of his joining dt. 29.08.2013 (P. 69).
- (x) The seniority list of 2015-16 (Exh. 71).
- (xi) Grant of selection grade to Mr Kanse from 15.07.2000 (P. 72).
- (xii) Letters addressed to Mr Kanse showing him as Vice-Principal for period from 2013-14 (P. 45-48, 51-52 and 53).

14. It appears that, Mr Kanse has joined the service on 15.07.1988 but his date of joining is wrongly shown as 17.07.1988. In fact, 17.07.1988 was Sunday. Mr Pathak and the Management have come up with a case that Mr Kanse had joined the service on 17.07.1988. According to their case, both Mr Pathak and Mr Kanse joined on 15.07.1988.

15. Mr Pathak has relied on the report of Education Officer to the effect that the salary record was produced before him showing that Mr Pathak has joined on 15.07.1988. Besides, he relied on the

order of approval showing his date of joining as 15.07.1988. He has relied on his applications of July-1992, August-1998 and July-2006 mentioned in Writ Petition No. 14807 of 2017 whereby he had claimed correction of his service record.

16. Considering the nature of dispute, it is relevant to refer to the case law on the subject in **Umesh Balkrishna Vispute Vs. State of Maharashtra & Others** reported in [2000(4) Mh.L.J. 564]. The Division Bench of this Court has held as follows :

- A) Finality of seniority list under Rule 12 by the Education Officer is not final and conclusive.
- B) The School Tribunal has jurisdiction to decide the issue of supersession u/s 9(1)(b) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and at the time of deciding this issue the School Tribunal has authority to decide the incidental issue of seniority notwithstanding the finding recorded by the Education Officer under Rule 12. It is also laid down in this case that, question of *inter se* seniority always involve disputed questions of fact cannot be adjudicated by the High Court in writ jurisdiction under Article 226 of the Constitution. In this regard, reliance was placed on the judgment of the Hon'ble Apex Court in the case of **Rashid Ahmed v. The Municipal Board, Kairana** reported in AIR 1950 SC 163.

- C) In the case of St. Ulai High School v Devendraprasad Jagannath reported in 2007(1) Mh.L.J. 597, the issue before full Bench of this Court was whether the jurisdiction of Civil Court u/s 9 of CPC was barred in view of Section 9 of MEPS Act and Rule 12 of the MEPS Rules to the extent of matters set out therein. It was held that, (i) the jurisdiction of the Civil Court is impliedly barred u/s 9 in respect of matters upon which the appeal lies to the Tribunal. (ii) The employee aggrieved by the action of the Management cannot file a suit. (iii) Neither MEPS Act nor the rules framed therein mandate grant of approval by the Education Officer as condition precedent to a valid order of appointment. The requirement of approval which relates to the disbursal of grant in aid is a matter between the management and the State and want of approval will not invalidate an order of appointment. Submission that, appeal is not maintainable before the Tribunal at the behest of an employee whose appointment has not been approved do not reflect the correct position in law and are overruled. It is also held that, the Tribunal would have the jurisdiction, while deciding the lawfulness of the action of the management to adjudicate upon the correctness of the determination of the Education Officer under Rule 12 as an incidental question.

17. In Smt. Pushpanjali Subodha Shenvi Vs Nagrik Seva Mandal & Ors. reported in 2016 (7) Mh.L.J. 856, the Single Judge of this Court in similar question involved regarding appointment of Headmistress observed that, raising of seniority issue at late stage is not fatal. It was observed that, the petitioner Asst. Teacher on few occasions has not disputed the seniority list showing the position of the respondent no.4 as senior to the petitioner, since no effect to the seniority list was given by the management by giving any promotion to the respondent no.4 or otherwise till there was vacancy in the post of Head Mistress. It was held that, the petitioner was not precluded from raising such issue of seniority when the petitioner was sought to be superseded by the management by promoting the respondent.

18. In Y. Ramamohan and others vs. Government of India & Ors. reported in (2001) 10 SCC 537, R. Prabha Devi and others vs. Govt. of India and others reported in AIR 1988 SC 902, P. S. Sadasivaswamy vs. State of T. N. reported in AIR 1974 SC 2271 and Karanataka Power Corporation Ltd. And Anr. vs. K. Thangappan and Anr. reported in AIR 2006 SC 1581, delay and laches has been held to be fatal for entertaining any challenge to the order of the seniority.

19. On careful consideration, we find that, both Mr Pathak and Mr Kanse are claiming that they were senior to each other and they were superseded. The issue of seniority is integral part of their claim of supersession. As held in Umesh Balkrishna Vispute (supra) and full Bench judgment of this court in St. Ulai High School's (supra), the jurisdiction to challenge the supersession is vested with the School Tribunal and fixing of seniority under Rule 12 is not final and conclusive and can be reconsidered by the School Tribunal. We find that the facts discussed herein above disclose disputed facts with regard to issue of seniority and it is well settled that this court in exercise of inherent jurisdiction under Article 226 of the Constitution of India shall not entertain a claim on disputed questions of facts. In the facts and circumstances of the case, it is necessary that the issue of supersession and seniority should be considered by the School Tribunal. The issue whether the challenge to the seniority at such a late stage by Mr Pathak should be entertained or not should also be left open to be decided by the School Tribunal. As held in *Shioraj Education Society Vs Presiding Officer, School Tribunal* reported in 2000(2) Mh.L.J. 752, there is no period of limitation for challenging the supersession before the School Tribunal. However, such an appeal should be filed within reasonable time.

20. No doubt, the validity of order of appointment of Mr Kanse by Dy. Director dt. 29.03.2016 is also challenged on the ground of lack of jurisdiction to review and lack of following proper procedure. Nonetheless, the issue relates to supersession. Hence, we find that, these writ petitions deserve to be dismissed with liberty to the parties to approach the School Tribunal. Hence, we pass the following order.

ORDER

- (i) All the writ petitions are dismissed on the ground that, the issues raised before this Court should have been agitated by the parties before the School Tribunal. In view of this fact, liberty is granted to the parties to raise issue of supersession and seniority and other challenges before the School Tribunal.
- (ii) It is further directed that if the parties herein file appeals challenging earlier orders within four weeks from the date of this order, the School Tribunal shall entertain the appeals without raising the issue of limitation and decide the appeals as expeditiously as possible, preferably within six months from the date of presentation of appeals

(iii) The parties shall cooperate the Presiding Officer of the Tribunal in expeditious disposal of the appeals.

21. Rule is discharged. No order as to costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde