

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1311 OF 2013

Shri. S. R. Dhivare

..Petitioner

Versus

The State of Maharashtra and others

..Respondents

Mr. Vinayak Kumbhar I/by Nazia S. A. Shaikh, Advocate for the
Petitioner.

Mr. K. S. Thorat, AGP for Respondent Nos.1 to 3.

Ms. Leena Patil, Advocate for Respondent No.4.

Mr. Sagar Tambe I/by Mr. Tapan Thatte, Advocate for Respondent
No.6.

**WITH
WRIT PETITION NO.11767 OF 2012**

Shri. Anil Parvat Jadhav

..Petitioner

Versus

The Secretary,

Nashik District Vidhayak Karya Samiti

Satana and others

..Respondents

Mr. Sagar Tambe I/by Mr. Tapan Thatte, Advocate for the Petitioner.

Ms. Leena Patil, Advocate for Respondent No.1.

Mr. K. S. Thorat, AGP for Respondent Nos.3 to 5 & 7.

**CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.**

DATE : 16th JULY, 2019

P.C.

1] The two captioned Petitions are being disposed of
together because they arise out of the same set of backdrop facts.

2] The fight is between Shri. S. R. Dhivare, the Petitioner of Writ Petition No.1311 of 2013 and Respondent No.6 in said Petition Shri. A. P. Jadhav. Shri. S. R. Dhivare challenges the implementation of the order dated 22.11.2012 passed by the Deputy Director of Education, Nashik Division, Nashik which was reiterated by him after hearing Shri. S. R. Dhivare and Shri. A. P. Jadhav on 11.01.2013. Shri. A. P. Jadhav challenges the order dated 22.11.2012 and the order dated 11.01.2013.

3] Nashik Zilla Vidhayak Karya Samiti is a Trust registered under the Public Trust Act and the protagonist and antagonist which have given birth to the Writ Petitions are Shri. Vijay Panditrao Patil and Shri. Sukdeo Krishna Sonawane; both of whom claim to be the president of the Trust. Unfortunately, the dispute as to who is in the management of the Trust currently awaits decision before the Deputy Charity Commissioner.

4] Shri. S. R. Dhivare was the Head Master of V.P.N. Vidyalaya at Satana established by the Trust. Shri. A. P. Jadhav was the Head Master of Janata Vidyalaya, Joran established by the same Trust. In mid session, on 14.09.2012 Shri. Sukdeo Krishna Sonawane issued a transfer order requiring Petitioner to report as the Head Master of Janata Vidyalaya, Joran and Shri. A. P. Jadhav to report as the Head Master of V.P.N. Vidyalaya, Satana. Meaning thereby, it was *inter-se* transfer.

5] Shri. S. R. Dhivare raised the issue of mid-term transfer and approached the Deputy Director of Education who passed the order dated 22.11.2012 requiring both to stay put as Head Master of their respective schools pre 14.09.2012. The Deputy Director of Education thereafter heard Shri. S. R. Dhivare and Shri. A. P. Jadhav and reiterated his earlier decision vide order dated 11.01.2013. Notwithstanding said fact, Shri. A. P. Jadhav reported and insisted to take over and discharge the duties of the Head Master of V.P.N. Vidyalaya, Satana. He filed Writ Petition No.11767 of 2012 challenging the orders dated 22.11.2012 and 11.01.2013 passed by the Deputy Director of Education.

6] Questioned by the Court, learned counsel for Shri. S. R. Dhivare and Shri. A. P. Jadhav informed that the current position is that Shri. A. P. Jadhav has been functioning as the Head Master of V.P.N. Vidyalaya, Satana all throughout and the Petitioner joined as Head Master of the Janata Vidyalaya, Joran on 26.12.2016. Thus, it will be useless for the Court to decide whether Deputy Director of Education was justified in passing the orders dated 22.11.2012 and 11.01.2013.

7] But the issue which needs to be adjudicated is on account of the fact that Shri. S. R. Dhivare has not received wages from 14.09.2012 till 25.12.2016. The reason is obvious. During said period, Shri. A. P. Jadhav also functioned as the Head Master of the school. Probably, Shri. S. R. Dhivare wanted to continue to work as

the Head Master in said school. He patience gave up on 26.12.2016.

8] As noted above, the problem has arisen on account of Respondent Nos.4 and 5, Shri. Vijay Panditrao Patil and Shri. Sukdeo Krishna Sonawane claiming to be the president of the Trust. Regretfully, the Deputy Charity Commissioner passed no interim orders and till date has not decided the dispute as to who is in the management of the Trust.

9] We burden Shri. Sukdeo Krishna Sonawane to bear the financial liability at the first instance. The gentleman shall pay the salary to Shri. S. R. Dhivare from 14.09.2012 to 25.12.2016. He is permitted to make a representation to the Deputy Director of Education to disburse the grant-in-aid keeping in view that the schools established by the Trust are aided schools. The Deputy Director of Education would consider whether it should be disbursed and for which decision he would note the fact that the gentleman has created the problem.

10] Needful shall be done within eight weeks from today.

N. M. JAMDAR, J

CHIEF JUSTICE