PRAJAKTA SAGAR VARTAK
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4398 OF 2024

Vijay Baburao Mahajan & Ors. ...Petitioners
Versus
State of Maharashtra & Anr. ...Respondents

Mr. B. G. Lingade i/b Mr. Drupad Patil for the Petitioners.
Mr. M. M. Pabale, AGP for the State/Respondents.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATE : 24 MARCH 2025

P.C.:

1. By this petition, the petitioners have brought before the court a grievance, which can be the grievance of any common man who has something to do with the revenue disputes involving revenue records and the revenue authorities who are conferred with the powers of adjudication, and thereafter the issues to be taken before the final revenue adjudicatory forum, namely, the Maharashtra Revenue Tribunal (for short, "**MRT**").

2. In the context of the proceedings before the MRT, the petitioners were aggrieved by the patent inaction on the part of the State Government in not appointing members to the MRT to the vacant posts by following the procedure as laid down in the Maharashtra Revenue Tribunal Rules 2013 (for short, "**2013 Rules**"). In this context, the Court's attention was drawn to an order dated 19 July 2016 passed by the co-ordinate Bench of this Court [Coram: A. S. Oka and A. A. Sayed, JJ (as Their Lordships then were)] in Writ Petition No. 6322 of 2013 (Mr. Chandrakant Hanjarimal Rathod & Ors. v/s. The State of Maharashtra & Ors.), wherein, considering the provisions of Section 325 of the Maharashtra Land Revenue Code, 1966, specific directions were issued that rules be framed as such powers to frame rules were not exercised. The said order passed by this court is required to be noted which reads thus:-

> "1. 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.
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> 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.
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> 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."

3. The aforesaid proceedings were returnable for compliance on 30 September 2016, when the court in its order recorded the statement as made on behalf of the State Government that time of three months was required to frame the rules by exercising power under sub-section (1) of Section 325 of the Maharashtra Land Revenue Code (for short, "the **Code**"). It was also observed that in terms of what was placed before the court, namely a letter dated 19 June 2016 addressed by the desk officer of the Revenue and Forest Department of the State Government to the learned AGP, it showed that the State Government had accepted the suggestion of the court incorporated in paragraph 6 of the said order of framing Rules under sub-section (1) of Section 325 of the Code. The Court accordingly passed the following order:-

"1 Perused the order dated 19th June 2016. The learned AGP

> has placed on record the letter dated 29th September 2016 addressed to him by the Desk Officer of Revenue and Forest Department of the State Government. It is stated therein that the time of three months is required to frame the Rules by exercising power under subsection 1 of section 325 of the Maharashtra Land Revenue Code. The said letter shows that the State Government has accepted the suggestion of this Court incorporated in paragraph 6 of the said order of framing the Rules under sub section 1 of section 325 of the said Code. He has also placed on record a notification dated 20th July 2016 by which three members of the Tribunal were appointed at principal seat at Mumbai and two members at the Bench at Aurangabad, two members at the Bench at Nagpur and one member at the Bench at Pune. However, the learned AGP pointed out that out of the aforesaid members, Shri Kesarkar (at Mumbai) and Shri Shinde (at Pune) have not accepted the posts.
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> 2 We direct the State Government to take appropriate steps for filling in vacancies within a period of two months from today. The aforesaid letter and the notification are taken on record and marked `B1' and `B2' for identification. For reporting compliance, the petition shall be listed under the caption of `Directions' on 6th January 2017."

4. Despite such orders being passed almost about 9 years back, the State Government did not take any action that too having made a solemn statement before the Court, resultantly, the situation is that for want of Presiding Officers of the MRT discharging such powers of adjudication at the different places in the State of Maharashtra, the posts have remained vacant. It is on such backdrop, the present petition was filed.

5. On 27 January 2025 when the proceedings were listed before us, we considered the aforesaid orders passed by the coordinate Bench of this Court in Chandrakant Hanjarimal Rathod & Ors. (supra) and disposed of this petition directing that the respondents shall take appropriate steps to fill up the vacancy of the post of Presiding Officer, Maharashtra Revenue Tribunal at Kolhapur, which be completed within six weeks from the date a copy of the said order is available. This was obviously on the presumption that the directions of this Court had stood complied and the Rules were in place for further steps to be taken to comply with the orders passed by this Court in Writ Petition No. 6322 of 2013 (supra). We also directed the Secretary, Department of Revenue to act on an authenticated copy of the order. We had also directed that the petition be made returnable on 17 March 2025 for compliance.

6. Accordingly, today we were to hear the State Government on compliance of our orders. Mr. Pabale, learned AGP states that nothing could be done as State Government has now framed rules which were notified on 04 February 2025 and therefore, further three months time would be required to comply with the orders passed by this Court. In supporting such contention, reply affidavit of Mr. Sanjay Audumbar Dharurkar, Deputy Secretary, Revenue and Forest Department is placed on record. Paragraphs 6 and 7 of the said affidavit inter alia in the above context has stated as under:-

> "6. I say and submit that, Revenue and Forests Department has

published an advertisement in newspapers on 05/02/2025, inviting applications for the appointment of President, Judicial Members, and Administrative Members for the Principal Bench at Greater Mumbai and the Benches at Pune, Chhatrapati Sambhajinagar, and Nagpur. The vacancies include both existing and anticipated vacancies in accordance with the provisions of the Maharashtra Land Revenue Tribunal Rules, 2025. The process of appointment for these positions is expected to take approximately three months for completion. A copy of advertisement in newspapers is annexed and marked as Exhibit R2.

7. I respectfully say and submit that, certain facts regarding the Principal Bench and other Benches of the Maharashtra Land Revenue Tribunal have not been fully brought to the kind attention of this Hon'ble Court. Consequently, the observations made in paragraph two of the order dated 27th January 2025 have been recorded. However, I wish to clarify the correct factual position before this Hon'ble Court.

The Principal Bench of the Maharashtra Land Revenue Tribunal is located at Mumbai, and there are additional Benches at Pune, Chhatrapati Sambhaji Nagar, and Nagpur. The jurisdiction of the Pune Bench extends to cases originating from the districts of Pune, Kolhapur, Sangli, Satara, and Solapur. **I submit that due to a significant backlog of pending cases in Kolhapur district and the inconvenience caused to lawyers and litigants in traveling to Pune for proceedings, the Revenue and Forest Department of the Government of Maharashtra issued a letter bearing No. MRT 2017/Case No. 63/ T-1 dated 19.07.2017.** The said letter pertains to the approval of the holding of sittings of the Pune Bench of the Maharashtra Land Revenue Tribunal at Kolhapur for a few days each month to expedite the disposal of pending cases. The said letter is annexed and marked as Exhibit R3.

(emphasis supplied)

7. What is seen from the aforesaid statements is that the concerned department is fully conscious of the tremendous inconvenience caused to the lawyers and litigants in traveling to Pune for proceedings, which are now being taken at different places and when there was a significant backlog of pending cases as clearly admitted in paragraph 7 of the aforesaid reply affidavit.

8. However, what has bothered us is on two issues; firstly when categorically on 19 July 2016 coordinate Bench of this Court had passed the order in the case of Chandrakant Hanjarimal Rathod & Ors. (supra) issuing specific directions in regard to framing of rules under sub-section (1) of Section 325 and thereafter the Government making a solemn statement as recorded in the order dated 30 September 2016 when a statement was made, that three months time would be required to frame the rules, by exercising power under sub-section (1) of Section 325 of the Code and accordingly the Court made the petition returnable on 06 January 2017.

9. We also find from the record that there is an order dated 26 July 2017 passed by the Division Bench of this Court [Coram: Naresh H. Patil (His Lordship then was) and Smt. Bharati H. Dangre, JJ.] when a statement on behalf of the State Government was made that temporary arrangement for Tribunal's sitting was made and effective steps were being taken for making permanent arrangement in the office of Collector, Kolhapur and to that effect, a communication dated 26 July 2017 was placed on record as addressed by the Resident Deputy Collector, Kolhapur to Deputy Secretary, Revenue and Forest Department. We find that thereafter no order was passed on the said proceedings, and more particularly when the earlier orders were staring at the respondents to be complied.

10. Thus, almost for a period of 9 years, the concerned department of the State Government has continued to be in breach of the orders dated 19 July 2016, 30 September 2016 passed by this Court and the subsequent order dated 26 July 2017 for almost 10 years. It is difficult for us to believe such gross inaction, when it comes to Court orders.

11. Despite such glaring facts when the proceedings of this case were listed before the Court on 27 January 2025, neither the AGP representing the State nor the Court was appraised that the State Government was in breach of the orders dated 19 July 2016 and 30 September 2016 and that no rules have been framed. An impression was given that an appointment can be made and accordingly this Court disposed of the present petition directing to fill up the vacancy of the post of Presiding Officer, MRT at Kolhapur by granting a sufficient time of six weeks, from the date a copy of the said order was available. It thus, clearly appears that the concerned department was aware that the rules were not framed and there was non-compliance of the orders dated 19 July 2016 and 30 September 2016 passed by this Court on Writ Petition No. 6322 of 2013. Although substantial period has lapsed i.e. from 27 January 2025 till date, an opportunity under the garb of this order appears to have been exploited to frame fresh rules, without an application being made to the Court for modification of the order, on the ground that the order dated 27 January 2025 cannot be complied.

12. Today when the matter is listed for compliance, on behalf of the State Government, Mr. Pabale, learned AGP has thrown to the Court an affidavit of Mr. Sanjay Audumbar Dharurkar, Deputy Secretary, Revenue and Forest Department to state that the respondents have not complied the order dated 27 January 2025 as new rules are framed, further three months time is required to frame the rules.

13. From the aforesaid circumstances, we find that apart from the gross inaction and the breach of the order dated 19 July 2016 read with the orders dated 30 September 2016 and 27 January 2025, there was a very casual and callous approach on the part of the concerned Revenue and Forest Department in not complying the said orders passed by this Court, which is for a period of almost 9 years.

14. We, accordingly, direct the Secretary, Revenue and Forest Department, Government of Maharashtra, to file an affidavit setting out reason for the delay and non-compliance of the orders dated 19 July 2016, 30 September 2016 and the further order dated 27 January 2025 passed by this Court and as to the behest of which of the officials (which be identified) in the department such inordinate delay and non-compliance of the orders could be attributed. Stand over to **07 April 2025 (H.O.B.)**.

15. We are constrained to pass the aforesaid order being concerned with the insurmountable inconvenience and prejudice caused to the litigants in depriving them an access to justice, which is a constitutional requirement, and when the orders of this Court were passed, recognising such constitutional principle. Thus, the orders which are in public interest could never have been undermined that to with impunity namely the orders of the Court dated 19 July 2016 and 30 September 2016 as also the order dated 27 January 2025. We are also constrained to observe that it seems from the reply affidavit that the concerned department has completely overlooked the rule of law, in the context which we have observed hereinabove.

16. The learned AGP to forward a copy of this order to the Secretary, Revenue and Forest Department, Government of Maharashtra, who shall file an affidavit as directed on or before the adjourned date of hearing.

17. Stand over to **07 April 2025 (H.O.B.)**.

[ADVAIT M. SETHNA, J.] **[G. S. KULKARNI, J.]**