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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 243 OF 2026

Smt. Rashmi Wd/o. Badam Kasar,
Age: 53 years, Occu.: Service,
R/o. Newasa Road, Kasar Vasti,
Near Engineering College,
Wadala Mahadeo, Shrirampur,
District : Ahilyanagar.

... Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
School Education and Sports
Department, Madam Cama Road,
Hutatma Rajguru Chowk, Mantralaya,
Mumbai – 400032.
2. The Education Officer (Secondary)
Zilla Parishad, Ahilyanagar,
Taluka & District: Ahilyanagar.
3. Hind Seva Mandal,
Through its Secretary,
Sarda College Ground,
In front of Civil Hospital,
Borkar Nagar, Ahilyanagar.
4. B.R. Khatod Girl's School,
Through its Headmaster,
Shrirampur, Taluka Shrirampur,
District: Ahilyanagar.

... Respondents

.....
Mr. R.A. Joshi, Advocate for the Petitioner
Mr. V.M. Kagne, AGP for Respondents Nos.1 and 2
.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATED : 02 FEBRUARY, 2026

JUDGMENT [Per Hiten S. Venegavkar, J.] :-

1. Rule. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal at the stage of admission.

2. The petitioner is employed as an Assistant Teacher in respondent no.4 school, run by respondent No.3-Management, namely Hind Seva Mandal. The petition is instituted under Article 226 of the Constitution of India, assailing the communication/order dated 15.11.2025 issued by the Management, whereby the petitioner, who was made to work as Assistant Head with effect from 01.01.2025, has been reverted to the post of Assistant Teacher with effect from 16.11.2025.

3. The prayers, as placed before us, are essentially (i) to set aside the Management's order dated 15.11.2025; (ii) to declare that the petitioner is entitled to work as Assistant Head in respondent No.4 school; and (iii) to direct respondent No.4 to forward the proposal for approval of the petitioner's appointment/promotion as Assistant Head to respondent No.2, the Education Officer (Secondary), Zilla Parishad Ahilyanagar.

4. The factual matrix, in brief, is thus: the petitioner was appointed as an Assistant Teacher in the year 1992. Her appointment

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came to be approved on 15.01.1994 by the Education Officer, and after completion of probation she was made permanent by the management. While in service, the petitioner acquired additional qualifications (including graduation, B.Ed., and post-graduate qualifications). The petitioner asserts that she ought to have been granted the B.Ed. pay scale earlier than November 2009; she further states that sanction for higher pay scale/steps was accorded in 2019.

5. The petitioner then relies upon the State's guidelines dated 24.03.2023 concerning fixation of seniority of teachers in secondary schools under Rule 12 read with Schedule "F" of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("MEPS Rules"). The petitioner states that she was promoted as Supervisor by the management on 30.07.2024, and was thereafter promoted/appointed as Assistant Head by order dated 30.12.2024. According to the petitioner, though she joined as Assistant Head on 01.01.2025, the proposal for approval was not forwarded to the Education Officer.

6. It is further the petitioner's case that in November 2025 she proceeded on medical leave on account of her son's medical needs. While on such leave, she received the impugned communication dated 15.11.2025 reverting her to the post of Assistant Teacher with effect

from 16.11.2025. The impugned communication refers to (i) a circular dated 28.01.2025 issued by the State; (ii) a communication dated 03.02.2025 issued by the Education Officer; and (iii) decisions of this Court dated 11.02.2025 and 03.03.2025 (as stated in the communication). The petitioner contends that the impugned order is vague, *ex parte*, and unsustainable.

7. Heard learned counsel for the petitioner and learned Assistant Government Pleader for respondent nos.1 and 2.

8. At the hearing, the learned AGP raised a preliminary objection to the maintainability of the petition. It is submitted that the impugned order effects a “reduction in rank” of the petitioner, and therefore an efficacious statutory remedy of appeal is available to the petitioner under Section 9(1)(a) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (“MEPS Act”). Learned AGP places reliance on Section 9 of the MEPS Act, which reads thus:

“Section 9. Right of appeal to Tribunal to employees of private schools. -

(1) Notwithstanding anything contained in any law or contract for the time being in force, any employee in a private school-

(a) who is dismissed or removed or whose services are otherwise terminated or who is reduced in rank, by the order passed by the management; or

(b) who is superseded by the Management while making an appointment to any post by promotion; and who is aggrieved, shall have a right of appeal and may appeal against any such order or supersession to the Tribunal constituted under section 8:

Provided that, no such appeal shall lie to the Tribunal in any case where the matter has already been decided by a Court of competent jurisdiction or is pending before such Court, on the appointed date or where the order of dismissal, removal, otherwise termination of service or reduction in rank was passed by the Management at any time before the 1st July 1976.

(2) Such appeal shall be made by the employee to the Tribunal, within thirty days from the date of receipt by him of the order of dismissal, removal, otherwise termination of service or reduction in rank, as the case may be:

Provided that, where such order was made before the appointed date, such appeal may be made within sixty days from the said date.

(3) Notwithstanding anything contained in sub-section (2), the Tribunal may, entertain an appeal made to it after the expiry of the said period of thirty or sixty days, as the case may be, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

(4) Every appeal shall be accompanied by a fee of five hundred rupees, which shall not be refunded and shall be credited to the Consolidated Fund of the State.”

It is, therefore, urged that in view of the availability of an alternative and efficacious statutory remedy, this Court ought not to entertain the petition under Article 226 of the Constitution of India.

9. Per contra, learned counsel for the petitioner submits that the impugned communication is issued by the management and not by the Education Officer. It is argued that the petitioner is not reduced in rank by way of punishment; rather, the impugned action is the outcome of the management’s failure to prepare/maintain a seniority list in

accordance with Rule 12 read with Schedule “F”, and the controversy, in substance, pertains to *inter se* seniority. Learned counsel places reliance on Rule 12 of the MEPS Act, which reads thus:

“Rule 12. Seniority List

(1) Every Management shall prepare and maintain seniority list of the teaching staff including Head Master and Assistant Head Master and non teaching staff in the school in accordance with the guidelines laid down in schedule ‘F’. The seniority list so prepared shall be circulated amongst the members of the staff concerned and their signatures for having received a copy of the list shall be obtained. Any subsequent change made in the seniority list from time to time shall also be brought to the notice of the members of the staff concerned and their signatures for having noted the change shall be obtained.

(2) Objections, if any, to the seniority list or the changes therein shall be duly taken into consideration by the Management.

(3) Disputes, if any, in the matter of inter se seniority shall be referred to the Education Officer for his decision.”

It is further urged that the decision is taken without affording opportunity, and therefore the writ petition should be entertained despite the existence of a statutory remedy.

10. In view of the rival submissions, we consider it appropriate to determine, as a threshold issue, whether the writ petition should be entertained in the face of the alternate statutory remedy under the MEPS Act.

11. Section 9 of the MEPS Act confers a right of appeal to the School Tribunal. The provision opens with a *non obstante* clause and expressly provides a right of appeal, *inter alia*, where an employee “is reduced in rank” by an order passed by the management, and also where an employee is “superseded” in promotion.

12. Rule 12 of the MEPS Rules, which deals with seniority, obliges the management to prepare and maintain the seniority list and to circulate it; it further contemplates objections to such list being raised before the management, and provides that disputes of *inter se* seniority are to be referred to the Education Officer for decision.

13. The interplay between Section 9 and Rule 12 has been authoritatively considered by a Full Bench of this Court in ***Namdeo Vishnu Sase v. State of Maharashtra***, 2023 (2) MhLJ 598. The Full Bench, after considering earlier decisions, clarified that Rule 12 prescribes the procedure for objections and reference to the Education Officer, but where consequential action is taken by the management that amounts to a “reduction in rank” or “supersession” (i.e., action falling within Section 9(1)(a) or 9(1)(b)), the remedy is an appeal under Section 9, and the Tribunal can examine the correctness of seniority-related determinations as an incidental issue while adjudicating the legality of the management’s action.

14. The Full Bench also explained that there may be circumstances where no appeal lies (for instance, where a decision on seniority does not culminate in a Section 9-type consequential action), and in such cases, a person may be “remedy-less” unless recourse is taken in accordance with law. However, once the management’s action squarely falls within Section 9(1)(a) or (b), the statutory appeal is the designated remedy.

15. Applying the aforesaid legal position to the present facts, the impugned communication dated 15.11.2025, on its plain terms and effect, reverts the petitioner from the post of Assistant Head (which the petitioner claims to have been discharging since 01.01.2025) to the post of Assistant Teacher with effect from 16.11.2025. Such reversion is, in substance and effect, a reduction in rank. It therefore falls within the express field of Section 9(1)(a) of the MEPS Act, which provides an appeal against an order of the management reducing an employee in rank.

16. The petitioner seeks to characterise the controversy as one of seniority and the management’s failure to maintain a seniority list. Even if that be so, it does not alter the essential nature of the impugned order, namely, reversion/reduction in rank by the management. The Full

Bench has made it clear that where the management's consequential action is challengeable under Section 9, the Tribunal may adjudicate the seniority issues as incidental questions while deciding the lawfulness of the management's action.

17. We also note that in the present writ petition, the substantive challenge and reliefs are directed against the management's order dated 15.11.2025. The petition does not primarily seek a mandamus to compel preparation/circulation of a seniority list or to enforce the procedural steps under Rule 12 as an independent relief. The gravamen remains the reversion order, i.e., reduction in rank, for which the legislature has provided a specialised appellate forum with powers to grant appropriate relief.

18. Learned counsel for the petitioner also invoked the alleged breach of natural justice. The existence of an alternate remedy is not an absolute bar, and constitutional courts do entertain writ petitions in exceptional contingencies, including where there is a failure of natural justice or where proceedings are wholly without jurisdiction. However, those principles cannot be applied mechanically to bypass a specialised statutory mechanism, particularly where the grievance is against an order expressly made appealable and where the appellate forum is empowered to examine legality, propriety, and compliance with rules

and conditions of service. The School Tribunal under Section 9, read with Section 11, is not a hollow remedy; it is designed precisely to adjudicate disputes concerning reduction in rank and allied service consequences, and to mould the relief.

19. In the present case, the petitioner's complaint that the decision was ex parte, that the basis cited is vague, and that seniority rules were not followed, are all matters which can be urged effectively before the School Tribunal in an appeal under Section 9. The Tribunal can consider the legality of the reversion, the procedural fairness, and (where necessary) the seniority dimensions as incidental issues in the context of the management's action.

20. The reliance placed by the petitioner on the Full Bench decision dated 03.03.2023 is misconceived. Properly read, it supports the preliminary objection. The Full Bench expressly recognises that when the impugned consequence is reduction in rank or supersession, the statutory appeal under Section 9 is the remedy, and the Tribunal can go into seniority issues incidentally.

21. For these reasons, we uphold the preliminary objection. The petition is not entertained on the ground that an effective and efficacious alternative remedy, by way of a statutory appeal under

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Section 9 of the MEPS Act, is available against the impugned order of reduction in rank.

22. The writ petition is, accordingly, dismissed. No order as to costs.

23 The petitioner is at liberty to prefer an appeal before the School Tribunal under Section 9 of the MEPS Act. Considering that the petitioner has pursued the remedy before this Court, it is clarified that if such appeal is filed within three weeks from today, the Tribunal shall consider the question of limitation liberally, keeping in view the pendency of the present petition.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE