



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO.15335 OF 2025

SHIVANAND SUBHASH SWAMI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. S.K. Mathpati, Advocate for petitioner

Miss. Neha B. Kamble, AGP for respondent Nos.1 to 3

Mr. A.A. Mukhedkar, Advocate for respondent No.6

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

DATE : 27th JANUARY, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Present petition challenges the impugned order dated 03.06.2025 passed by respondent No.2 only to the extent of cancellation of approval granted in favour of petitioner on the post of Deputy Headmaster (Secondary) of respondent No.5 school. Petitioner also seeks directions to respondent No.3 to finalize the seniority list under Rule 12 of the M.E.P.S. Act, 1978 as per the existing Government Resolutions.

2 Heard learned Advocate Mr. S.K. Mathpati for petitioner, learned AGP Miss. Neha B. Kamble for respondent Nos.1 to 3 and learned Advocate Mr. A.A. Mukhedkar for respondent No.6.

3 Learned Advocate for petitioner submits that the undisputed fact is that petitioner was appointed as Secondary Teacher by respondent No.4 institution after due procedure of law from 25.10.1999. His appointment was approved by Education Officer (Secondary) by order dated 29.08.2000. After acquisition of additional qualification, he came to be promoted as Supervisor with effect from 01.08.2022 and was granted pay scale under the approval order dated 26.09.2023 passed by respondent No.3. According to petitioner, he is the seniormost teacher in respondent No.4 school. Thereafter, he has been promoted as Deputy Headmaster with effect from 01.06.2024 by respondent No.4. Respondent No.3 then granted approval on 28.11.2024 to the said promotion by granting pay scale for the said post. However, thereafter respondent No.3 had issued a notice on 29.01.2025 to respondent Nos.4 and 5 stating that petitioner should not be given approval for the post of Deputy Headmaster without verification of seniority list. Hearing was called on 04.02.2025 at 3.00 p.m. Accordingly, the hearing was conducted by respondent No.3 and directions were given to the office of respondent No.3 to provide the seniority list of school as per Government

Circular dated 28.01.2025. In the meanwhile, post of Headmaster in respondent No.5 became vacant and, therefore, petitioner had preferred an application to the office of respondent No.4 to appoint him on the said post. However, respondent No.4 had published advertisement. According to petitioner, respondent No.3 only has the jurisdiction to decide the issue of seniority. The approval granted to petitioner has been objected by respondent No.6. Still that seniority issue will have to be decided by respondent No.3 and Deputy Director of Education has no authority to decide the seniority; yet, the impugned order, though it has been stated to be after the hearing of parties, is an illegal order. All the circulars and the decisions of this Court at the Principal Seat as well as Bench at Nagpur were not considered while considering the seniority list and, therefore, the petitioner is before this Court.

4 Respondent No.6 has filed affidavit-in-reply and she submits that the order dated 03.06.2025 passed by Deputy Director of Education is well reasoned order, which needs no interference. The prayer seeking directions to finalize the seniority list is vague. Respondent No.6 came to be appointed as an Assistant Teacher on 21.06.1993. She was holding qualification of M.A. B.Ed. since the date of her appointment. In view of amendment in M.E.P.S. Rules the seniority of respondent No.6 has to be reckoned from the date of

her appointment. She was appointed six years prior to the appointment of petitioner and, therefore, she is senior to petitioner. Though petitioner has been shown at Sr.No.24 and she has been shown at Sr.No.75 in the seniority list; yet, the fact remains is that petitioner came to be appointed later than her appointment.

5 Here, the fact remains is that there is a seniority list that was prepared by the institution, wherein petitioner has been shown at Sr.No.24, whereas respondent No.6 has been shown at Sr.No.75. Now, the question would be – Whether she had ever objected to seniority list and if there is any objection, then the MEPS Act itself prescribes for the redressal of the same.

6 Here, how the matter went before the Deputy Director of Education is required to be considered. It appears that respondent No.6 has approved the promotion or placement of petitioner at the post of Deputy Headmaster. Respondent No.6 has then objected to the same. Now, that appeal is stated to be in view of Government Resolution dated 07.03.2024, wherein an Appellate Forum has been created. At this stage, we do not want to go into the aspect, as to whether the Government can create such Appellate Forum on the administrative side, without there being any provision in the statute. Here, there is specific provision under Rule 12 of the

M.E.P.S. Rules and when there is dispute in respect of seniority list, then respondent No.3 – Education Officer is the competent authority. Now, in this case, respondent No.3 had approved the order in favour of petitioner, whether it was after fixing of seniority list or not, is a question of fact ? But taking into consideration the prayer clauses, it can be noted that respondent No.3 – Education Officer has not finalized the seniority list. Unless the said seniority would have been fixed, whether he was justified in passing the approval order, is also a question ? But, still, when it was not even finalized and there is a statutory provision to that effect, the question of dealing with the dispute under the Government Resolution dated 27.03.2025 does not arise at all. Further, clause II of the said Government Resolution prescribes 15 categories under which the Committee having appellate jurisdiction created under the said resolution can take up the matter, in which this promotional or approvals based on or having background of deciding the seniority list have not been included. Therefore, impugned order dated 03.06.2025 is absolutely without jurisdiction and, therefore, deserves to be set aside.

7 In the event, we partly allow the writ petition.

8 The impugned order dated 03.06.2025 only to the extent of

cancellation of approval granted in favour of petitioner on the post of Deputy Headmaster (Secondary) of respondent No.5 school stands quashed and set aside.

9 The matter is relegated to respondent No.3. Respondent No.3 to finalize the seniority list under Rule 12 of the M.E.P.S. Act in respect of respondent No.5 school. He should hear the parties by informing them about the date, place and time of hearing. He may give opportunity to petitioner, respondent No.6, respondent No.5 officials or any other person who raises objection to the seniority.

10 This entire exercise be done within a period of two months from today.

11 Further steps would depend on the fixation of seniority and, therefore, other two prayers of petitioner stand rejected.

12 Respective parties are at liberty to act after the fixation of seniority.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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