

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

WRIT PETITION NO. 17140 OF 2024

1. Madhuri Dnyaneshwar Khandeshe

2. Ankush Maruti Taware

...Petitioners

Versus

1. State of Maharashtra

2. The Education Officer

(Secondary) Zilla Parishad, Pune

3. Suresh Kashinath Jarkad

4. Shikshan Prasarak Mandal

Through its Chairman/Secretary

5. Vidya Vikas Mandir

Secondary and Higher Secondary

Vidyalaya, through Headmaster

...Respondents

Mr. Anil V. Anturkar, Senior Advocate i/b Mr. Atharva A. Date
for Petitioners.

Dr. Dhruti Kapadia, AGP for State-Respondent Nos. 1 and 2.

Mr. Prasad Dani, Senior Advocate a/w Mr. Yatin Malvankar i/by
Mr. Rakesh Jadhav for Respondent No. 3.

CORAM : SOMASEKHAR SUNDARESAN, J.

Reserved on : January 9, 2025

Pronounced on : January 17, 2026

JUDGEMENT :

Context and Factual Background:

1. This Petition impugns an order dated September 20, 2024 (*"Impugned Order"*) passed by Respondent No.2, The Education Officer (Secondary), Zilla Parishad, Pune in connection with the seniority list

published by Respondent No.4, Shikshan Prasarak Mandal (“**Educational Institution**”) in its School, Respondent No.5, Vidya Vikas Mandir (“**Secondary School**”). For convenience, the Educational Institution and the Secondary School are collectively referred to as the “**Employer**”.

2. The Impugned Order declares the Respondent No.3, Suresh Kashinath Jarkad (“**Suresh**”) as being senior to the two Petitioners, Petitioner No.1, Madhuri Dnyaneshwar Khandeshe (“**Madhuri**”) and Petitioner No.2, Ankush Maruti Taware (“**Ankush**”). Madhuri and Ankush, being aggrieved by Suresh being treated as senior to them in terms of the Maharashtra Employees of Private Schools (Conditions of Services) Rules, 1981 (“**MEPS Rules**”) made under the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 (“**MEPS Act**”), have sought quashing and setting aside the Impugned Order.

3. The factual matrix summarizing the credentials of each of the persons relevant for adjudication of this Petition is summarized in the following manner :-

Suresh:

(a) Suresh joined the employment of the Employer on June 23, 1993;

(b) Suresh then held a Diploma in Education (***“D. Ed.”***), obtained on ***July 25, 1992***;

(c) Suresh graduated with a Bachelor of Arts (***“B.A.”***) degree on ***June 20, 1996***; and

(d) Suresh went on to obtain a Bachelor in Education (***“B. Ed.”***) degree on ***July 3, 2007***.

Ankush:

(a) Ankush joined the Employer on ***August 8, 1997***;

(b) Ankush then held a B.A. degree, obtained on ***July 4, 1994***; and

(c) Ankush had already completed his B. Ed. on ***May 24, 1995***.

Madhuri:

(a) Madhuri joined the School on ***July 23, 1997***;

(b) Madhuri then held a Bachelor of Science (***“B. Sc.”***) degree, obtained on ***June 30, 1990***; and

(c) Madhuri had already completed her B. Ed. on May 5, 1993.

Core Issue:

4. The core question to be answered is: *Which of the three employees (among Madhuri, Ankush and Suresh) got into Category “C” of Schedule “F” to the MEPS Rules first, for reckoning their inter se seniority.*

5. According to Madhuri and Ankush, their respective dates for entry into Category “C” of Schedule “F” to the MEPS Rules should be August 8, 1997 (for Ankush) and July 23, 1997 (for Madhuri) i.e. the respective dates on which they joined the Employer. This position is adopted on the basis that when they joined the employment of the Employer, each of them already had a basic graduate degree, and in addition, a B.Ed. degree.

6. Therefore, admittedly, Madhuri is senior to Ankush. The two Petitioners are aligned in their interest. They are not competing for seniority with each other. They jointly contend that in sharp contrast with the position declared in the Impugned Order, Suresh should be counted as having entered Category “C” of Schedule “F” to the MEPS

Rules only on July 3, 2007, i.e. a decade after them, which is the date on which he obtained his B. Ed. degree. They contend that the Impugned Order is wrong in treating Suresh as having joined Category “C” with effect from June 20, 1996, the date on which he obtained in B.A. degree.

7. One Mr. Ankush Maruti Shingade retired as Head Master of the School on May 31, 2024, creating a vacancy for the post. The two main contenders for this position, by virtue of seniority, are Madhuri and Suresh. Therefore, the adjudication has to be of whether Suresh would qualify for seniority from June 20, 1996 or July 3, 2007. The answer would lead to the question of who would be Head Master.

Analysis and Findings:

8. Against this factual background, it must be stated that Mr. Anil Anturkar, Learned Senior Advocate on behalf of Madhuri and Ankush; and Mr. Prasad Dani, Learned Senior Advocate on behalf of Suresh were heard at length. With the assistance of their verbal and written submissions, the record was considered.

9. At the threshold, two minor distractions may also be put out of the way. *First*, after Suresh first joined the Employer, he had a break in service, but it is common ground that after June 20, 1996, he has

been in uninterrupted service. *Second*, until Suresh graduated with a B. Ed. degree, he would not have been qualified to teach students of secondary education, but it is common ground that he had joined and served the Secondary School, in which primary education is also imparted. Therefore, for all necessary purposes of this Petition, he is a teacher in the Secondary School, to which Schedule “F” of the MEPS Rules would apply.

10. To answer the core issue set out above, one has to answer whether Suresh’s seniority should be considered from June 20, 1996 (his B.A. graduation date) or from July 3, 2007 (his B. Ed. graduation date).

WP 5617 – Scope of Remand:

11. The seniority issue has already been subject matter of chequered litigation in the past. In the interest of brevity, the entire historical flow of how the seniority list had been prepared by the Educational Institution over the years, and the sequence of proceedings in the past is not being reproduced by me here, choosing instead, to focus on the core controversy involved in adjudication of this Petition. However, suffice it to say that on an earlier occasion, a view taken by the Education Officer on February 14, 2022 instructing that Suresh’s

seniority must be determined as being the earlier of (i) the date on which Suresh completed ten years of service after obtaining the B.A. degree; and (ii) the date on which Suresh obtained the B. Ed. qualification, was challenged in Writ Petition No. 5617 of 2023 (***WP 5617***).

12. By an order dated April 26, 2024 (***Remand Order***), a Learned Single Judge of this Court was pleased to quash and set aside the order dated February 14, 2022, disposing of WP 5617 by remanding the matter, with a direction that the seniority should be determined by considering the law declared in judgement dated April 11, 2023 in ***Sahakar Vidya Prasarak Mandal*** in Writ Petition No. 1221 of 2022 (***SVP Mandal***) and in judgement dated March 26, 2024 in ***Krishna Gasti*** in Writ Petition No. 2952 of 2021 (***Krishna Gasti***).

13. The Remand Order is clear in its terms about the scope of the remand. The law declared in ***SVP Mandal*** and ***Krishna Gasti*** was to be applied. The Remand Order was not challenged further, and the scope of remand remained undisturbed and attained finality.

14. Thereafter, the Employer submitted a new seniority list treating Suresh as senior. This was opposed by Ankush, and based on his objection, the Employer prepared another seniority list. Therefore,

two different seniority lists, one dated June 1, 2024, and another dated August 29, 2024 fell for consideration by the Education Officer leaving it to him to determine which seniority list is correct. The Education Officer heard all the respective parties and then passed the Impugned Order, by which he concluded that Suresh is senior to Madhuri and Ankush, by applying the Government Notification dated March 24, 2023 (“**2023 Notification**”).

Regulatory Framework:

15. At the threshold it would be appropriate to extract the relevant provisions of the MEPS Act and the MEPS Rules. Section 12 of the MEPS Act, reads thus:

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 to 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.

[Emphasis Supplied]

16. The relevant extracts of Schedule “F” are set out below:

Schedule “F”

2. Guidelines for fixation of seniority of teachers in the secondary schools, Junior Colleges of Education and Junior College classes attached to Secondary Schools the teachers should be categorised as follows:

Category C : Holders of -

Master’s degree in Social Science/ Humanities/ Science/ Maths/Language (with 50% marks), M.Ed. (with 50% marks)/ M.A. (Education) (with 50% marks) (in accordance with the changes made by National Council for Teacher Education from time to time). OR

M. A. /M. Sc./M. Com., B.T./B. Ed., or its equivalent; OR

B. A./B. Sc./B. Com., B. T./B. Ed., or its equivalent; OR

B. A./B. Sc./B. Com., Dip. T. (old two years course)/ D.Ed. (old two years course); OR

B. A./B. Sc./B. Com., S. T. C. /Dip. Ed./Dip. T. (one year course) with ten years’ service; OR

Category F : Untrained Graduates or holders of equivalent qualification.

Category G : Untrained Matriculates or holders of equivalent qualification.

Note 1 : For the purpose of categories C, D, and E teachers with S. T. C., T. D., Jr. P. T. C. Dip, T., Dip. Ed. (post S.S.C. one year course) qualifications appointed on or after 1st October 1970 shall be considered as untrained and their seniority shall be fixed in the 'F' or 'G' category of untrained teachers as the case may be.

Note 2 : The following training qualifications which can be secured two years after S.S.C. Examination shall be considered as training qualification for the purpose of seniority even after 1st October 1970

- (1) D. Ed. (2 years)*
- (2) T. D. (Bombay University)*
- (3) Dip. Ed. (Nagpur University)*

Note 4 : The categories mentioned above represent the ladder of seniority and have been mentioned in descending order.

[Emphasis Supplied]

17. A plain reading of the provisions would show that the seniority list is required to be prepared and maintained in accordance with the Schedule "F" which contains guidelines for preparation of the seniority list. The seniority list is required to be circulated to all

members of the staff who are required to confirm having received a copy with any subsequent change also being brought to the notice of such staff. The staff is entitled to raise objections, which should be factored in by the Management, after which, disputes in connection with *inter se* seniority would be referred to the Education Officer for its decision.

18. It is common ground that in the instant case, the provisions of Category “C” alone would be relevant – all the contenders fall within its provisions. A quick outline of a few settled and well-accepted principles for interpreting the aforesaid guidelines that deal with Category “C” would be in order. As seen in Note 4 above, the Categories are in hierarchical order but within Category “C”, the listing of multiple combinations of qualifications does not connote any *inter se* hierarchy. In other words, anyone falling in any of the combinations of qualifications would qualify for Category “C” just as anyone else falling in any other combination of qualifications listed in it. Therefore, for determining *inter se* seniority within those falling in Category “C”, only the date of entry into that Category would matter.

19. Under Category “C”, nine different combinations of qualifications are listed. The structure of each combination of qualifications involves reading the “,” (comma) as “*and*” and the “/”

(oblique mark) as “*or*”. In other words, one would need any one of the qualifications separated by an *oblique mark* (/), along with any one of the qualifications separated by a *comma* (,).

20. The third combination of qualifications involves graduation in B. A., B. Sc. or B. Com, **and** Bachelor in Training or B. Ed. or its equivalent. The fourth combination of qualifications involves graduation in B. A., B. Sc. or B. Com **and** S.T.C., Diploma in Training (old two years course) or Diploma in Education (old two years course). The fifth combination of qualifications involves graduation in B. A., B. Sc. or B. Com **and**, among others, Diploma in Education or Diploma in Training (one year course) *with* ten years of service.

21. In terms of Note 2 in Schedule “F”, Diploma in Education (two years course), which can be obtained after the S.S.C. examination would be considered as a training qualification. In other words, candidates with this qualification would not be treated as “untrained” for them to be placed in Category “F” or Category “G”.

22. Going by Madhuri’s contentions, in terms of Note 1, Suresh ought to have been placed in Category “G” as an untrained matriculate until he obtained his B.A. qualification (on June 20, 1996); and in Category “F” until he got his B.Ed. (on July 3, 2007). At best, having

passed S.S.C examination with a D. Ed, he would fall in Category “E” and on getting his B.A. he would get placed in Category “D”. By this time, Madhuri had already joined employment with the Employer with B.Sc and B.Ed. and therefore, having entered Category “C” on employment, she contends she would be ahead of Suresh in the seniority ranking within Category “C”.

2023 Notification:

23. However, the guidelines describing Category “C” were amended by the 2023 Notification to include in the fourth combination of qualifications, the D. Ed (two year course). The 2023 Notification contains an inherent explanation for the insertion of D.Ed (two year course) into the fourth combination of qualifications. Prior to amendment, it entailed, in addition to the basic graduation, the Dip. T (old two years course). The 2023 Notification explains that brought in the D. Ed (two year course) as an eligibility criterion was a conscious insertion. The 2023 Notification notes that many cases had been pending in courts about the exclusion of D. Ed when Dip. T had been included.

24. Therefore, this is a conscious legislative policy choice that had been exercised in the making of this amendment to subordinate

legislation. This is precisely the amendment that is referred to in the judgement of the Learned Single Judge (*N.J. Jamadar J*) in ***SVP Mandal***, which is followed by another Learned Single Judge (*Gauri Godse J*) in ***Krishna Gasti***. It was explicitly held that upon this amendment being made, those having such a combination of qualifications would be “catapulted” into Category “C” since that is the evident policy intent behind the 2023 Notification.

25. ***SVP Mandal*** analysed the very same provisions and interpreted Note 2 of Schedule “F” to return a finding that the contents of Schedule “F” must be harmoniously read as a whole. Any other view, according to the Learned Single Judge, would lead to the D. Ed. (two year course) falling out of any of the entries in Category “C”. In the absence of any stipulation that only those who complete the D. Ed (two year course) after March 24, 2023 would get the benefit of the 2023 Notification, there is no basis to revisit the logical, fair and reasonable declaration of the law by the Learned Single Judge in ***SVP Mandal***.

26. Likewise, in the case of ***Krishna Gasti***, by a judgement dated March 26, 2024 a Learned Single Judge of this Court also took a similar view and arrived at a finding that the acquisition of B.A. degree by a person having D. Ed. post S.S.C. would bring such person within

Category “C” in Schedule “F” of the MEPS Rules as of the date of acquiring the B.A. degree. The decision in *Krishna Gasti* is identical to the facts of this case. Following the decision in *SVP Mandal*, it was held that the person who already held a D. Ed and thereafter obtained a B.A. degree would be catapulted into Category “C” immediately on obtaining the B.A. degree.

27. The Remand Order squarely referred to the aforesaid view and directed that it be applied as a term of the scope of remand. While Madhuri was not a party to the WP 5167 which led to the Remand Order, it was the scope of remand that governed the scope of analysis by the Learned Education Officer. Mr. Dani would correctly point out that these two judgements have been rightly applied by the Learned Education Officer, whose findings, therefore, cannot be faulted and must not be interfered with.

2023 Notification – Retrospective or Retroactive:

28. Faced with the precedent set by the two Learned Single Judges, Mr. Anturkar has also made submissions on how these interpretations need not be agreed with. In particular, he would point out that effectively, the 2023 Notification is being given a retrospective application. *SVP Mandal*, he would submit, renders a declaration that

the 2023 Notification wipes out pre-existing seniority established prior to the 2023 Notification, and therefore, it is an arbitrary and unconstitutional reading of the law. If I were to agree with Mr. Anturkar, it would potentially lead to a case of a reference to a Division Bench and therefore, I have considered this submission.

29. To begin with, the “catapulting” provided for in the declaration of the law in ***SVP Mandal***, appears to be a conscious decision spelt out in the reasons transparently set out in the 2023 Notification. The wisdom of this amendment is said to be under a constitutional challenge, but that by itself would not be relevant for this Petition. So long as the provision as amended is part of the legislation, it has to be applied. The nuance sought to be underlined is that even while the 2023 Notification is a part of the legislation, its interpretation should be made in a manner that renders it reasonable and constitutional rather than arbitrary and unconstitutional. Therefore, whether it applies retrospectively is a question to be considered.

30. In my view, the 2023 Notification is not being applied retrospectively. For the interpretation in ***SVP Mandal*** to be retrospective in nature, it would need to disturb promotions and benefits that have already been conferred as a consequence of the

seniority. That is not the case in the matter in hand. The effect of the 2023 Notification is only being applied prospectively for actions that follow after the 2023 Notification took effect. In the instant case, it would be determinative of who would be the next Head Master and that is an event taking place after the 2023 Notification. It is nobody's case that by reason of the 2023 Notification, the incumbent of any position is now being displaced by the "catapulting" of a person who has a graduation degree with D. Ed qualification. This is not a "retrospective" application but a "retroactive" application.

31. The law on when an amendment is "retrospective" and when "retroactive" is well summarised in *Rajkumar Nagpal*¹ and would squarely apply to the facts of this case and will bear out the position that the 2023 Notification is not a retrospective amendment as interpreted in *SVP Mandal*. The following extracts declare the law in relation new requirements and conditions stipulated by a circular issued by the Securities and Exchange Board of India for a valid restructuring of debt. At the risk of adding to the length of this judgement, they are set out below:

(iv) *The SEBI Circular has retroactive application*

¹ *SEBI vs. Rajkumar Nagpal* – (2023) 8 SCC 274

98. Mr N. Venkataraman, learned Senior Counsel and Additional Solicitor General has argued that the SEBI Circular is retroactive in nature as it does not take away or impair any vested rights. It operates in the future, based on events that arose prior to its issuance. Mr Darius Khambata, learned Senior Counsel appearing for RCFL argued that the effect of applying the SEBI Circular to the present case will render it retrospective and not retroactive. According to him, Clauses 22 and 23 of the Fifth Schedule to the Debenture Trust Deed(s) vested debenture-holders with the right to authorise debenture trustees “to sanction any compromise or arrangement proposed to be made between the company and the beneficial owner(s)/debenture-holder(s)”. This sanction could be authorised by a majority of “not less than three-fourths of the persons voting ... or if a poll is demanded ... not less than three-fourths in value of the votes cast on such poll”. The SEBI Circular, it has been urged, changed the nature of the special majority required to sanction a compromise by introducing the requirement of a majority of 60% of ISIN level votes.

99. We are of the opinion that the SEBI Circular has retroactive application. In Principles of Statutory Interpretation by Justice G.P. Singh (14th Edn., 2016 at p. 583), it is stated that:

“The rule against retrospective construction is not applicable to a statute merely because “a part of the requisites for its action is drawn from a time antecedent to its passing”. If that were not so, every statute will be presumed to apply only to persons born and things which come into existence after its operation and the rule may well result in virtual nullification of most of the statutes.”

100. In *Vineeta Sharma v. Rakesh Sharma* [*Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1 : (2021) 1 SCC (Civ) 119] this Court described the nature of prospective, retrospective, and retroactive laws : (SCC p. 53, para 61)

“61. The prospective statute operates from the date of its enactment conferring new rights. The retrospective statute operates backwards and takes away or impairs vested rights acquired under existing laws. A retroactive statute is the one that does not operate retrospectively. It operates in futuro. However, its operation is based upon the character or status that arose earlier. Characteristic or event which happened in the past or requisites which had been drawn from antecedent events.”

101. The terms “retrospective” and “retroactive” are often used interchangeably. However, their meanings are distinct. This Court succinctly appreciated the difference between these concepts in State Bank's Staff Union (Madras Circle) v. Union of India [State Bank's Staff Union (Madras Circle) v. Union of India, (2005) 7 SCC 584 : 2005 SCC (L&S) 994] :

“Retroactivity” is a term often used by lawyers but rarely defined. On analysis it soon becomes apparent, moreover, that it is used to cover at least two distinct concepts. The first, which may be called “true retroactivity”, consists in the application of a new rule of law to an act or transaction which was completed before the rule was promulgated. The second concept, which will be referred to as “quasi-retroactivity”, occurs when a new rule of law is applied to an act or transaction in the process of completion....The foundation of these concepts is the distinction between completed and pending transactions....” [T.C. Hartley, The Foundations of European Community Law 129 (1981).]

102. Many decisions of this Court define “retroactivity” to mean laws which destroy or impair vested rights. In real terms, this is the definition of “retrospectivity” or “true retroactivity”. “Quasi-retroactivity” or simply “retroactivity” on the other hand is a law which is applicable to an act or transaction that is still underway. Such an act or transaction has not been completed and is in the process of completion. Retroactive laws also apply

where the status or character of a thing or situation arose prior to the passage of the law. Merely because a law operates on certain circumstances which are antecedent to its passing does not mean that it is retrospective.

103. In the present case, RCFL issued the debentures and defaulted on the payments to the debenture-holders prior to the issuance of the SEBI Circular. However, as of 13-10-2020 (the date on which the SEBI Circular came into force), a compromise or agreement on the restructuring of the debt owed by RCFL did not exist. The debenture-holders were not vested with any rights with respect to the resolution of RCFL's debt. The existence of the debt and the subsequent default by RCFL was the status of events, which existed prior to 13-10-2020. Once it came into force, the SEBI Circular applied to the manner of resolution of debt, as specified therein.

[Emphasis Supplied]

32. It would be abundantly clear that merely because a law would have an effect on facts and circumstances that arose prior to its introduction, the law would not become a retrospective law. The qualifications obtained by all the three candidates had been acquired before the 2023 Notification. Once the amendment was effected by the 2023 Notification, it had prospective effect on the consequences of such qualifications already held as of the date of its introduction i.e. March 24, 2023. This is a classic case of retroactive application. This is not a case where Madhuri was already the Head Master or was the beneficiary of some position as of March 24, 2023, and by reason of the 2023

Notification, she was asked to give it up and make way for Suresh – that would have perhaps enabled a contention of retrospective application. In the case at hand, the reckoning as to who is now senior is being taken on the basis of the law now applicable – the law amended way back on March 24, 2023. This is not a retrospective operation at all.

No Grandfathering Provision Involved:

33. On the other hand, to preserve special status for those who had a certain treatment before amendment, the 2023 Notification ought to have created a “*datum line*” out of March 24, 2023, and created two streams of implications – for those falling on either side of the date. This would have required what is popularly called a “grandfathering clause” which allows existing situations that people who are affected by the law to remain exempt from the operation of the new law. The 2023 Notification contains no such framework or provision to enable multiple contentions made by Mr. Anturkar on behalf of Madhuri, for me to disagree with the law already declared in ***SVP Mandal*** and consider making a reference to a larger bench. I am in respectful agreement with the law already declared and I find no reason to deviate from it, or to re-open the controversy with a disagreement on the law declared. As already stated, the policy intent is made abundantly clear in the 2023

Notification itself – there being no plausible reason to exclude D.Ed when Diploma in Training was included in the fourth combination of qualifications listed in Category “C” of Schedule “F”.

34. Suresh completed his S.S.C. after which he obtained D. Ed on July 25, 1992. He had joined the School on June 23, 1993. While being employed in the School, he obtained his B.A. degree on *June 20, 1996*. Therefore, as of June 20, 1996, the combination of qualifications held by Suresh entailed a B.A. degree with D. Ed that he already held. Therefore, Suresh’s entry into Category “C” was completed by *June 20, 1996*. That Suresh went on to also obtain a B. Ed. Degree and did so by July 3, 2007, would only represent a further qualification by Suresh in his own quest for enhancing his credentials. However, for purposes of being counted as a constituent of Category “C”, the two qualifications held by him namely the B.A. degree along with the D. Ed would bring him within the fourth combination of qualifications under Category “C” upon the 2023 Notification taking effect – which is a retroactive operation and not a retrospective operation.

35. On the other hand, Madhuri, graduated with B. Sc. degree prior to Suresh on June 30, 1990 and even obtained her B. Ed. degree on May 5, 1993. However, her date of appointment in the School is *July*

23, 1997, which is after June 20, 1996. Therefore, indeed, when Madhuri joined the School she joined as an integral member of Category “C” with both B. Sc. as well as B. Ed. Qualifications in hand, falling in the third of the listed combination of qualifications. However, on the date she joined the School, Suresh already had the qualifications stipulated in the fourth combination of qualifications – he had them as of June 20, 1996.

36. The above outcome is obtained by applying the guidelines for Category “C” as it stands today to the facts of the case as applied today, when the transaction of choosing the Head Master is to be effected. The provisions of Category “C” as they stand today had been inserted with effect from March 24, 2023. As already stated, there is nothing in the law to protect those who would be affected by the amendment to be made immune from the amendment by insertion of a “grandfathering” provision. The expectation of continued discrimination against Suresh as applied to him before March 24, 2023 (by the exclusion of D. Ed qualification even while Dip. T qualification was included) is not rooted in any sound legal basis.

37. For the very same reason, I am unable to accept that Suresh’s entry into Category “C” would start on March 24, 2023. This would

have been the outcome had there been a “grandfathering” provision in the 2023 Notification. In its absence, there having been no stipulation of creating two classes and streams of implications for those to whom Schedule “F” applied, it would not be possible to treat Suresh as not being a beneficiary of the 2023 Notification as interpreted by the judgement in *SVP Mandal*.

38. The law as applicable when the seniority list is being drawn up is the law to apply. Such an application is explicitly in conformity with the Remand Order.

Conclusion:

39. For the aforesaid reasons, in my opinion, it is declared that Suresh became a member of Category “C” on June 20, 1996, and not on July 3, 2007. Therefore, when the Head Master’s position fell vacant in 2024, and the seniority lists as applicable in 2024 have to form the basis for that decision, the law to be applied is as it stood when such seniority list was drawn up – which is Schedule “F” as amended on March 23, 2024. Applying that law, the aforesaid outcome would follow.

40. Therefore, no case is made out for interference with the Impugned Order. The contentions made on behalf of Madhuri and

Ankush against Suresh's seniority are devoid of merit, and therefore, this Writ Petition is *dismissed*.

41. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]