IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Swapnil

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4099 OF 2017

Swacchanad Shikshan Prasarak
Mandal Majiwade V.v.c.h.s. Ltd.
And Anr. … Petitioners

Vs.

Nanda Balasaheb Shinde
And Ors. … Respondents

WITH
INTERIM APPLICATION NO. 8469 OF 2024
WITH
WRIT PETITION NO. 3267 OF 2007

Mr. Akshay A. Patil, Mr. Gopal L. Dalvi, Mr. Rutik P. Katkar, Mr. Akshay Pednekar for the petitioners.

Mr. Vedant Bende, Mr. Mandar Limaye for respondent no.2.

Mr. Mayuresh Lagu (Thr. V.C.), Mr. Sagar Patil for respondent no.1.

Mr. Ajit Pitale for respondent no.3.

Mr. Y. D. Patil, AGP, Mr. Yatin Khochare for 'B' PNC State.

Mr. Hiraman B. Pawar, President, Ms. Suchita H. Pawar, Treasurer, Ms. Supriya H. Pawar, Secretary.

Mr. Rajesh Kankal, Deputy Director of Education, Mumbai Division.

Mr. Sheshrao Bade, Education Officer, TMC.

Mr. Balasaheb Rakshe, Education Officer, Zilla Parishad, Thane.

CORAM : GAURI GODSE, J.

DATE : 26th February 2026

ORDER :

1. On 20th February 2024, this court passed an order recording that respondent no. 1 superannuated on 31st December 2022. Although the school tribunal issued orders directing the petitioners to reinstate respondent no. 1, no steps were taken to comply with those orders. In the earlier round of litigation, the school tribunal had set aside the termination order and directed the reinstatement of respondent no.1 with full backwages by order dated 16th March 2007. The said order is challenged by the petitioners in the Writ Petition No. 3287 of 2007. The writ petition was admitted on 6th June 2007. However, interim relief was rejected by passing a speaking order.

2. The petitioners had preferred Letters Patent Appeal No. 148 of 2007 to challenge the refusal of interim relief. However, the appeal was subsequently withdrawn. Hence, the order passed by the school tribunal on 16th March 2007 for the reinstatement of respondent no.1 with full backwages was never stayed. Despite the said order of reinstatement,

no action had been taken to reinstate or pay back wages.

3. According to respondent no. 1, she was not permitted to report to her duty on 7th April 2012. Hence, she preferred an appeal before the school tribunal challenging her otherwise termination. The school tribunal allowed the appeal on 27th June 2017 and directed the petitioners to reinstate the respondent no.1 to her original post of Assistant Teacher, with all consequential benefits, including the backwages and continuity of service.

4. In paragraph no. 31 of the order impugned in Writ Petition No. 4099 of 2017, the school tribunal has recommended that the Education Department is required to take strict action up to the extent of appointing an administrator in the school as per the rules and regulations. As per clause 5 of the operative order, the Education Officer of the Thane Municipal Corporation School Board was directed by the school tribunal to take every effort to ensure that the order of the tribunal was complied with by the petitioners, and to report compliance to the tribunal. Despite such an order, the Education Officer has not submitted any compliance report to the school tribunal.

5. On 14th February 2024, this court heard the Writ Petition No. 4099 of 2017 for admission, and when this court was not inclined to entertain the petition, the learned Advocate for the petitioners made a personal request to defer the passing of the order to enable him to take instructions. Thereafter, by order dated 20th February 2024, this Court recorded that passing of the order was deferred to enable the learned advocate for the petitioners to take instructions regarding the time required to comply with the impugned order. However, on that day, some other advocate appeared and requested permission to reargue the matter. Considering the petitioners' conduct, the learned AGP was requested to seek instructions from the concerned department regarding the observations made by the school tribunal in paragraph 31 of the impugned order. The writ petition was accordingly adjourned. Since none had appeared for respondent nos. 2 and 3, i.e., the Education Officer, Thane Municipal Corporation School Board, and the Education Officer, Zilla Parishad (Primary), the date for service of notice was extended. The matter thereafter remained pending for service.

6. On 17th April 2024, both the petitions were directed to be listed for final disposal on the daily board. The learned AGP was again requested to take instructions regarding the appearance on behalf of respondent no.3. Thereafter, on 14th November 2024, this court recorded that substantial time was consumed by the learned counsel for the petitioners in advancing irrelevant submissions. Hence, the matter was adjourned to file the paper book, as the court was unable to proceed. Accordingly, conditional time was granted to file the compilation of documents. The writ petition was adjourned for final hearing on 12th December 2024.

7. The matter was again adjourned on a few dates, and on 16th October 2025, in view of a change in assignment, learned counsel for the parties sought liberty to file an application on the administrative side to tag both the writ petitions together. Accordingly, both the writ petitions were listed before this court. Again, on 7th January 2026, the learned AGP was directed to take instructions as per paragraph no. 11 of the order dated 20th February 2024. On 6th February 2026, the learned Government Pleader (“GP”) was requested to attend the matter as there was no

compliance with the order dated 20th February 2024. Now the learned AGP represents respondent no.3, i.e., Education Officer, Zilla Parishad (Primary).

8. On 9th February 2026, the learned GP, on instructions of the Deputy Director of Education Board, who was present in the court, submitted that if the management provided the necessary documents within two days, all the necessary compliance would be made for releasing all the retirement benefits to respondent no.1 within one week. Learned counsel for the management had submitted that all the documents would be provided to the Deputy Director of the Education Department within two days. The statements made on behalf of the parties were accepted as assurance to this court. Based on the instructions received from the Deputy Director, Education Department, the particulars of the required documents were reproduced in order, and accordingly, the statement on behalf of the management was accepted that the documents would be provided within two days.

9. On 18th February 2026, the learned GP informed that an adequate proposal for the release of the retirement

benefits was required to be submitted to the Education Officer, Zilla Parishad (Primary), Thane, through the Education Officer, Thane Municipal Corporation. It was further submitted that the final action on the proposal would be taken by the Pay Unit, Education Department (primary) Zilla Parishad, and thereafter the papers would be forwarded to the office of the Accountant General. With regard to the direction issued by the school tribunal, the learned Government Pleader submitted that appropriate notice had already been issued to the management and that appropriate action would be taken in accordance with law within two weeks. She also submitted that the action taken would be placed before this court by filing a report.

10. Learned GP had tendered a list of documents for processing the pension papers. The list was taken on record, and a copy was handed over to the learned counsel for the petitioners. The statement was accordingly made on behalf of the petitioners that all actions for preparing the papers for the payment of back wages as per the impugned order and the retirement benefits would be prepared by the management at the earliest and immediately forwarded, after

the required papers were signed by respondent no.1. A statement on behalf of respondent no.1 was also recorded that she would cooperate to complete the papers for submitting the proposal.

11. In the order dated 18th February 2026, this court clarified that the order of reinstatement was never stayed. Hence, there was no reason not to take steps to release the back wages and retirement benefits. The statements made on behalf of the parties present in the court were recorded as an assurance to the court.

12. Despite the orders dated 9th February 2026 and 18th February 2026, the proposal to release the back wages and retirement benefits has not yet been submitted to the Education Officer, Thane Municipal Corporation School Board. Hence, the process still remains incomplete. Learned counsel for the petitioners on instructions submits that all the papers were prepared by the petitioners. However, the proposal could not be completed because respondent no. 1 refused to sign the papers, objecting that the prescribed pay scale with increments was not mentioned in the papers. He thus submits that, because the papers were not signed by

respondent no. 1, the proposal could not be submitted. He submits that, except for the relevant increment, the papers have been completed for submitting the proposal to release the back wages and retirement benefits.

13. By the order impugned in the Writ Petition No. 3267 of 2007, the tribunal had set aside the order of termination dated 26th May 2006 by directing the petitioners to reinstate respondent no. 1 on the post of Assistant Teacher in primary section along with all consequential benefits including continuity in service and backwages from the date of termination till the date of reinstatement and her services shall remain in continuation. The Education Officer, Thane Municipal Corporation School Board, was directed that if the payment of backwages was not made by the management, then all the dues payable to respondent no.1 shall be deducted from the grant payable to the management and be directly paid to respondent no.1, i.e. the appellant before the tribunal under intimation to the tribunal. The copy of the judgment passed by the tribunal was directed to be sent to the Director of Education, Maharashtra State and the Deputy Director of Education. This order was never stayed by this

court, and by a speaking order, the prayer for interim relief to stay this order was rejected.

14. The appeal, which sought to challenge the refusal of interim relief, was withdrawn. Despite these facts, neither the management complied with the directions nor the Education Officer submitted any report to the tribunal in terms of the directions issued for deducting the dues payable to respondent no.1 from the grant payable to the management.

15. Though this court has expressed anguish in strong words since February 2024 by passing a detailed order dated 20th February 2024, no steps have been taken by the Education Officer, Thane Municipal School Board, Education Officer, Zilla Parishad(primary), the Deputy Director of Education and the Director of Education, State of Maharashtra. It is absolutely shocking that, though the tribunal had passed an order on 16th March 2007 directing the Education Officer, Thane Municipal School Board, to deduct the amount from the grant payable to the management and pay it directly to respondent no.1; neither the Education Officer has taken efforts to comply with the order nor the Director of Education or the Deputy Director of

Education has taken any action. By the Order impugned in Writ Petition No. 4099 of 2017, the Deputy Director of Education and the Education Officer, Thane Municipal School Board were directed to take action against the petitioners; however, they have remained silent.

16. The school tribunal, reviewing the record before it, observed that the Education Department had given directions to the petitioners several times, but they failed to comply with the department's orders. Hence, the tribunal observed that the time had come to take strict action against the petitioners if they failed to comply with the tribunal’s order within the stipulated time. The Education Department was directed to take strict action, up to and including appointing an administrator at the school, as per the rules and regulations. It was further recorded that to meet the ends of justice, the Education Officer shall keep close watch on the matter and report compliance within four weeks from the date of the order. The copy of the judgment was directed to be sent to the Deputy Director, Education and Education Officer for necessary action and compliance. The tribunal had directed the respondent no. 1 to be reinstated in her original post of

Assistant Teacher with all consequential benefits, including backwages and continuity of service. The petitioners were directed to pay a cost of Rs. 50,000/- to respondent no. 1. The Education Officer was directed to take every effort to ensure that the order was complied with and to file a report of compliance with the tribunal.

17. Learned counsel appearing for the Education Officer, Thane Municipal Corporation School Board, submits that no compliance has been made. I am constrained to record that neither the Education Officer nor the Deputy Director, Education, nor the Director, Education, had made any efforts to take any action against the management. Even during the hearings before this Court, the concerned officers have not shown any remorse for completely disregarding the orders by the Tribunal and this Court.

18. From the aforesaid peculiar and shocking facts and circumstances, I am convinced that the office bearers of petitioner no. 1 and the Head Master, i.e. petitioner no. 2, the Education Officer, Thane Municipal Corporation School Board, the Education Officer, Zilla Parishad(primary), the Director of Education of the State of Maharashtra and the

Deputy Director of Education, State of Maharashtra has shown complete disregard to the orders passed by the tribunal on 16th March 2017 in the Appeal No. 17 of 2006, the order dated 27th January 2017 passed by the school tribunal in the Appeal No. 1 of 2014 and the orders dated 9th February 2026 and 18th February 2026 passed in the Writ Petition No. 4099 of 2017.

19. So far as the Education Officer, Thane Municipal Corporation School Board is concerned, no explanation is forthcoming for not taking steps to make payments to respondent no.1 directly as directed by the order dated 16th March 2007. So far as the directions issued by the school tribunal in the order dated 27th January 2017 to the Education Department is concerned, it is sought to be justified that since the petitioners' institution has been granted minority status, the action of appointing an administrator cannot be initiated. However, a statement is made on the instructions of the Deputy Director, Education, on 18th February 2026 that appropriate action shall be taken within two weeks from 18th February 2026, and that a report would be submitted before this court. However, so far as the Education Officer, Thane

Municipal Corporation School Board is concerned, there is no satisfactory explanation for not complying with the directions issued by the school tribunal on 16th March 2007.

20. So far as the petitioners are concerned, there is no satisfactory explanation for not complying with the orders of the school tribunal impugned in these petitions and for non-compliance with the statements made before this court, on 9th February 2026 and 18th February 2026. The office bearers of the management have attempted to explain that the proposal for payment of backwages and the retirement benefits could not be completed as respondent no.1 refused to sign the papers for want of recording increments. In this context, I find it necessary to record that on 7th August 2023, the division bench of this court in Writ Petition No. 85 of 2011 directed the Municipal Board of Thane Municipal Corporation to nominate any of its officers, including the Education Officer or an administrative officer, to hold an inquiry regarding the amount due and payable by way of salary and allowances. According to the Education Officer, Municipal School Board, an order was passed on 23rd December 2024 for the first time after this court passed an order on 20th February 2024. The

copy of the order dated 23rd December 2024, passed by the Education Officer, Thane Municipal Corporation, is taken on record. By the said order, the management was directed to submit the papers as specified therein before 26th December 2024.

21. Learned counsel for the petitioners on instructions submits that all the relevant papers were submitted before the Education Officer, Municipal School Board and are forwarded to the Pay Unit of Zilla Parishad. Learned AGP submits that, as per the oral instructions, since the proposal was incomplete, the Pay Unit of Zilla Parishad has not proceeded further and returned the papers. He therefore submits that he shall file an affidavit of the Education Officer (Primary), Zilla Parishad, explaining why compliance with the tribunal's direction to pay the salary was not done, though the proposal was submitted by the Education Officer, Thane Municipal School Board, pursuant to the order dated 23rd December 2024, in compliance with the order dated 7th August 2013, passed in the Writ Petition No. 85 of 2011..

22. The Education Officer, Thane Municipal Corporation School Board, shall file an affidavit showing cause why

contempt proceedings should not be initiated for non-compliance with the order dated 16th March 2007 passed by the school tribunal in Appeal No. 17 of 2006.

23. The Director, Education Department, the Deputy Director of Education Department of State of Maharashtra shall file an affidavit explaining why necessary action was not taken against the petitioners and the Education Officer, Thane Municipal School Board for non compliance of order dated 16th March 2007 passed by the school tribunal in Appeal No. 17 of 2006, Order dated 27th January 2017 passed by the school tribunal in Appeal No. 1 of 2014.

24. I find it necessary to record that the order of reinstatement passed by the school tribunal in the aforesaid appeal was never stayed by this court. Hence, there is no justification on the part of the petitioners and the Education Officer, Thane Municipal School Board, for non-compliance with the directions issued by the school tribunal in the aforesaid orders.

25. On 18th February 2026, the submissions on behalf of the parties were recorded that the necessary proposal for releasing the backwages as per the orders impugned in the

petition and the retirement benefits would be completed; however till date, the papers are incomplete. The office bearers of the petitioners have not placed on record any justifiable reasons for not forwarding the papers for the release of salary and the retirement benefits despite the order passed by the tribunal in the aforesaid appeals. Hence, so far as the office bearers of the petitioners are concerned, I am satisfied that they have committed a willful breach of the orders passed by the school tribunal, as well as the statements made before this court on 9th February 2026 and 18th February 2026.

26. Till the query was put by this court, there was never any explanation forthcoming from the petitioners that the papers could not be completed, as the respondent no.1 had refused to sign the papers on the ground that the entries in the service book regarding increments were not made. Hence, office is directed to issue notice to the office bearers i.e. a). Mr. Hiraman B. Pawar, President, b). Ms. Suchita H. Pawar, Treasurer, c). Ms. Supriya H. Pawar, Secretary, d). Mr. Sachet H. Pawar Vice President e). Mr. Kailas Bonde, Head Master, f). Mr. S. B. Bamne, Member, g). Ms. Vimal V.

Waghmare, Member, h). Ms. Savita S. K., Member as per Rule 8 read with Rule 9 of the Contempt of Courts (Bombay High Court) Rules, 1994 explaining why they should not be held guilty of committing willful and deliberate breach of the orders impugned in the Writ Petition No. 3267 of 2017 and the Writ Petition No. 4099 of 2017 and the assurances given to this court as recorded in Order dated 18th February 2026. The notice shall be made returnable after four weeks.

27. So far as the Education Officer, Thane Municipal Corporation School Board, the Education Officer, Zilla Parishad, the Director and the Deputy Director of Education, State of Maharashtra are concerned, they are directed to file an affidavit explaining as to why action under the Contempt of Courts Act should not be initiated against them. The necessary affidavits shall be filed by them within two weeks from today.

28. At this stage learned counsel for the petitioners on instructions of the President, the Secretary and the Treasurer who are present in the court submits that by 5th March 2026 the entire proposal for payment of backwages and for compliance of the orders impugned in both the petitions

including the retirement benefits would be completed to the satisfaction of respondent no.1 and submitted before the appropriate authorities for further process. The statement made on behalf of the petitioners is accepted as an undertaking to this court. In view of this statement and undertaking made on behalf of the petitioners, the order issuing the contempt notice against the office bearers of the petitioners, as directed by this order, shall remain in abeyance till the next date.

29. Stand over to 7th March 2026. To be listed first on the daily board.

[GAURI GODSE, J.]