



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3549 OF 2025

Rameshwar S/o. Vishnupant
Umak, Aged about 48 years,
Occ.: Nil, R/o. Ganuwadi, Near
Dastur Nagar, Amravati, Tah.
& Dist. Amravati.

...PETITIONER

VERSUS

1. State of Maharashtra, through
its Secretary, Education
Department Mantralaya,
Mumbai-32.
2. Education Officer (Secondary)
Zilla Parishad Amravati.
3. Samta Shikshan Prasarak
Mandal, through President/
Secretary, Manjri-Mhasla,
Tq. Nandgaon Khandeshwar,
Dist. Amravati.
4. Samrat Ashok Vidyalaya,
through its Headmaster,
Manjari Mhasala, Tah.
Nandgaon Khandeshwar, Tah.
& Dist. Amravati.

...RESPONDENTS

Ms Smita Dashputre, Advocate for petitioner
Shri N.R. Patil, AGP for respondent/State
Ms Radhika Bajaj, Advocate for respondent Nos. 3 & 4

CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : **25.02.2026**
PRONOUNCED ON : **07.03.2026**

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Rule. Rule is made returnable forthwith. Heard finally with the consent of parties.

2. The petition seeks a direction to the respondent No. 2, Education Officer, Zilla Parishad, Amravati, to take action against the respondent No. 3, Management, by stopping the salary grants and non-salary grants and further action under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. It further prays for a direction to the respondent Nos. 2 and 3 to join the petitioner on post created vide Government Resolution dated 01.12.2023.

3. The facts, as can be seen from the petition, are that on 16.07.1997, the petitioner was appointed as an Assistant Teacher at a school run by the respondent No.3, Management. Petitioner belongs to 'Dhoba' caste, which is a Scheduled Tribe. On

30.01.2017, the respondent, Management, sent a proposal for caste verification, which was, however, invalidated. The challenge to the said invalidation was upheld by this Court and the Hon'ble Supreme Court. Thereafter, on 03.11.2018, the respondent, Management, terminated the services of the petitioner. The challenge to the said termination also failed since the appeal challenging the same before the School Tribunal was rejected.

4. On 06.07.2017, the Hon'ble Supreme Court in Civil Appeal No.8928/2015 passed an order to keep the employees whose caste claims have been invalidated on a supernumerary post. In view of the said order, the State Government issued a Government Resolution on 01.12.2023 and thereby granted permission to keep the petitioner on a supernumerary post.

5. It is the grievance of the petitioner that in spite of making several representations to the Management to absorb him on a supernumerary post, in terms of Government Resolution dated 01.12.2023, the same had not been done. It can also be seen from the writ petition that the challenge to the said Government Resolution dated 01.12.2023 at the behest of the Management by

filing a Writ Petition No. 280/2024 was also withdrawn by said Management. It is in this scenario that the present petition is filed.

6. We have heard Ms Smita Dashaputre, learned Counsel for the petitioner, as also Shri N.R. Patil, learned Assistant Government Pleader for respondent Nos. 1 & 2/State, and Ms Radhika Bajaj, learned Counsel for respondent Nos. 3 and 4.

7. We have also perused the record of the matter with the assistance of the learned Counsel for the respective parties. It is submitted by the learned Counsel for the petitioner that the action of the respondent, Management, in view of the Government Resolution dated 01.12.2023, in not permitting him to join the supernumerary post is clearly erroneous and without any authority of law. She further submits that, in fact, the Management, as well as the Education Department, has committed contempt and therefore directions are needed accordingly. She submits that the entire exercise carried out by the Management is only with an aim to harass the petitioner, and even if the challenge to the Government Resolution dated 01.12.2023 has failed, the respondent, Management, has failed to act in pursuance to the said

resolution. She therefore submits that this is a fit case to exercise jurisdiction under Article 226 of the Constitution of India.

8. Per Contra, the learned Counsel for contesting respondent, i.e., the respondent Nos. 3 and 4 submits that the action is entirely legal and valid. By taking us through the reply filed by the said respondents, she submits that a finding of fraud has been recorded by this Court, as also by the Scrutiny Committee in the order of invalidation. By pointing us out paragraph Nos. 5 and 6 of the order of the Scrutiny Committee, the learned Counsel submit that there is a categorical finding that the petitioner has played fraud on the constitution and has obtained a caste certificate of 'Dhoba' Scheduled Tribe by way of suppressing the fact of his original caste only with a view to obtain a job reserved for Scheduled Tribe candidate.

9. She also points out the order of this Court in the earlier round of litigation, and more particularly, in Writ Petition No. 835/2017, passed on 28.09 2018. By pointing out paragraph No. 11 of the said order, she submits that this Court, in the said matter, has found that the petitioner has not approached it with clean

hands and has fabricated a story about the Scrutiny Committee assuring him of protection in employment. She thus submits that no right could have been accrued to the petitioner in view of the findings of fraud recorded by the Scrutiny Committee, as also by this Court. As far as the Government Resolution dated 21.12.2019 is concerned, it is the submission of the learned Counsel for the respondent Nos. 3 and 4, that it would not come in aid of the petitioner, since it applies only to the persons whose claims have been invalidated. She therefore tries to distinguish the said Government Resolution in view of the finding of fraud as referred to supra.

10. We have appreciated the contentions canvassed by the learned Counsel for the respective parties. The differentiation tried to be put by the learned Counsel for the respondent Nos.3 and 4 regarding the persons whose caste claims have been invalid simpliciter on merits and whose caste claims have been invalidated on the finding of fraud seems attractive at the first blush, but on a deeper perusal is without any substance. The Government Resolution dated 21.12.2019 was issued by the State after taking into consideration the judgment in *Chairman and Managing*

Director, Food Corporation of India and others v. Jagdish Balaram Bahira and others, (2017) 8 SCC 670.

11. A bare reading of the said Government Resolution would reveal that there is no such differentiation as has been put forth or tried to be canvassed by the learned Counsel for the respondent Nos. 3 and 4. A finding of fraud may be a factor out of many for invalidating the caste claim preferred by the respective applicants. The State Government after considering all these facts, has chosen to issue a Government Resolution. Since the challenge to the said resolution at the behest of the respondent Nos. 3 and 4 has been chosen to be withdrawn by it, the fact remains that the said Government Resolution dated 21.12.2019 has attained finality

12. It is also a matter of fact that vide Government Resolution dated 01.12.2023, in which the name of the petitioner is specifically mentioned, states that a supernumerary post for the employees mentioned therein has to be created for eleven months. The said Government Resolution has attained finality since the petitioner has chosen to withdraw the petition bearing Writ Petition 280/2024 on 25.02.2025. Thus, the fact remains that the

Government Resolution dated 01.12.2023, in which the name of the petitioner appears, still holds the field. It is therefore obvious that the action of the Management in not allowing the said Government Resolution to take its effect cannot be countenanced. Clause 2 of the said Government Resolution specifically states that by adopting a humane approach, the persons named therein, which includes the petitioner, are to be appointed by creating a supernumerary post for eleven months. It was thus obligatory on the Management to comply with the said Government Resolution dated 01.12.2023. Non-compliance of the said Government Resolution is clearly erroneous. Therefore, in our considered opinion, the petition is liable to be succeed partly. In that view of the matter, we pass the following direction:

ORDER

- i) The writ petition is partly allowed.
- ii) It is held that the action of the Management in not permitting the petitioner to join on a supernumerary post for eleven months as contemplated in the Government Resolution dated 01.12.2023, is bad in law and the same is quashed and set aside.

iii) It is further directed that the respondents should pay the salary to the petitioner for the period from 01.12.2023 for eleven months with all benefits.

13. The petition is allowed in the above terms.

14. Rule is made absolute with no order as to costs.

(NANDESH S. DESHPANDE, J.) (SMT. M.S. JAWALKAR, J.)

15. After pronouncement of the judgment and the Writ Petition being allowed, the learned Counsel for the respondent nos. 3 and 4 seeks stay to the effect and operation of this judgment so that the said judgment can be challenged before the Hon'ble Apex Court.

16. In view of the directions we have made in the judgment, the effect and operation of the judgment is stayed for four weeks from today and the stay would automatically lapse after the expiration of the period of four weeks.

(NANDESH S. DESHPANDE, J.) (SMT. M.S. JAWALKAR, J.)

Jayashree..