

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO.: 1134 OF 2014

EKNATH MAROTI AMBHORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Sagar Killarikar Balaji L.
AGP for Respondents: Mrs.S.A.Dhumal.
Advocate for Respondent No.2 : Mr.D.R.Rajput.
Advocate for Respondent No.3 : Mr.S.B.Gastgar.

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WITH

WRIT PETITION NO. 1133 OF 2014

ANANTA EKNATH KSHIRSAGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Kale Mahesh P.
AGP for Respondents: Mrs.S.A.Dhumal.
Advocate for Respondent Nos.2 and 4 : Mr.D.K.Rajput.

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CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 09th March, 2015.

PER COURT:

1 The Petitioner in Writ Petition No.1134 of 2014, is directed by the Education Officer to work as an In-charge Headmaster for the purpose of signing the salary bills etc. by virtue of the fact that he is the senior most teacher.

2 Mr.Kale, learned counsel for the Petitioner in Writ Petition No.1133 of 2014, states that the date of appointment of the Petitioner in Writ Petition No.1133 of 2014, is earlier in point of time. He is appointed on 15th June, 1986, whereas, the Petitioner in other writ petition is appointed on 10th April, 1989. The Petitioner in Writ Petition No.1133 of 2014 has got necessary educational qualification and is senior, as such, is entitled to be appointed as headmaster.

3 Mr.Killarikar, learned counsel for the Petitioner in Writ Petition No.1134 of 2014, states that the Petitioner therein though is appointed subsequently, has acquired the necessary qualification much earlier in point of time. He has acquired the requisite qualification on 20th July, 1988, whereas the Petitioner in other writ petition has acquired the requisite qualification in February, 1998. As such, is placed well below the Petitioner. The said seniority list is also decided by the Education Officer after considering all the objections. The learned counsel relies on the judgment of Full Bench of this Court in a case of **Vaijanath Tatyrao Shinde Vs. Secretary and others**, reported in, **[2006(6) Mh.L.J. 682]**.

4 We have heard learned AGP also.

5 The learned counsel for the Management states that though there is dispute in the Management, there is no dispute about the person who is acting as President. The dispute is only in respect of the person acting as

Secretary.

6 We have considered the submissions. We have also gone through the seniority list as filed on record. The date of acquiring the necessary qualification is not disputed. The Petitioner in Writ Petition No.1134 of 2014 has acquired necessary D.Ed. Qualification in 1988, whereas the Petitioner in Writ Petition No.1133 of 2014 has acquired the necessary D.Ed. qualification in the year 1998. The issue is no longer *res intergra* with regard to the seniority. The criteria for determining the seniority is the continuous officiation counted from the date of acquiring the necessary educational qualification as prescribed in Schedule-B. The same has been led to rest by the Apex Court in a case of **Viman Vaman Awale Vs. Gangadhar Makhriya Charitable Trust and others**, reported in, **[(2014) 13 Supreme Court Cases 219]**.

7 In light of the above, there cannot be any matter of debate that the Petitioner in Writ Petition No.1134 of 2014, is senior. The Education Officer has also directed the Management and appointed him as an In-charge Headmaster for signing the bills.

8 It is submitted that the proposal appointing the Petitioner in Writ Petition No.1134 of 2014 as Head Master, is already forwarded with the Education Officer.

9 In light of the above, the Education Officer shall decide the said

proposal on its own merits, expeditiously, preferably within three months.

10 Accordingly, the writ petitions are disposed of. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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