

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

WRIT PETITION NO. 3539 OF 2014

SHRI BHAUSAHEB MAHARAJ SHIKSHAN PRASARAK MANDAL
WASUNDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioners : Mr. Shinde Chandrakant K.
AGP for Respondents: Mr.A.S.Shinde.
...

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

DATE : 12th January, 2015.

P.C.:

1 Mr.Shinde, learned counsel for the Petitioners strenuously contends that the Education Officer while rejecting the proposal seeking approval to the appointment of the Petitioner No.2 as Headmaster has failed to consider Schedule -F of the M.E.P.S. Rules. The Petitioner No.2 possesses qualification of B.A. D.Ed. and is in service since 1978. The Petitioner No.2 acquired qualification of B.A. in the year 1998 and since then placed in the seniority list considering him to be a trained teacher. The learned counsel submits that Rule 3 will have to be read in consonance with Rule 9 and Schedule-F of the M.E.P.S. Rules. Rule 3 cannot be read in isolation. According to the learned counsel, one candidate belonging to S.T. category would be getting requisite qualification in April/May, 2015, and thereafter, the Management would

consider him for appointment as Headmaster. However, till then, there was be no impediment for the Respondent to grant approval to the appointment of Petitioner No.2 as a Headmaster and he is the senior most teacher. Even the said seniority list has been approved. The name of Petitioner No.2 is shown as senior most teacher having requisite qualification. Learned counsel also relies on the letter issued by the Deputy Director of Education dated 5th February, 1988.

2 Mr.Sinde, learned AGP submits that there are other teachers having B.Ed. qualification. As such the case of the Petitioner has been rightly negated by the Education Officer.

3 We have considered the submissions canvassed by the learned counsel for the respective parties. Schedule-F deals with the seniority, whereas, Rule 3 of the M.E.P.S. Rules specifically deals with the qualification required to be appointed as head i.e. Headmaster. Rule 3(1) unequivocally without any ambiguity lays down that in case of Secondary School, a person to be appointed as a head should possess bachelor degree in teaching or in education and should have atleast two years experience after acquiring bachelors decree in teaching or in education or any other qualification recognized by the Government as equivalent thereto.

4 Exception is made in Sub-Rule (2) of Rule 3 of the M.E.P.S. Rules

in case of non-availability of candidate possessing requisite qualification and teaching experience.

5 The approval is rejected on two ground that there is a backlog of S.T. candidate available and that the Petitioner No.2 is not qualified as per Rule 3.

6 Mr.Shinde, learned counsel has further contended that Petitioner No.2 possesses qualification equivalent to bachelor's of education. However, the same does not appear to have been placed before the Education Officer. The Petitioner may place the same before the Education Officer. It appears that the proposal has been rejected without hearing Petitioner Nos.1 and 2. It is for the Petitioners to bring to the notice of the Education Officer the qualification possessed by Respondent No.2 or whether the case of the Petitioners comes within the purview of Sub-Rule (2) of Rule 3 of the M.E.P.S. Rules. Schedule-F itself cannot be considered, however, it will have to be considered in consonance with Rule 3. Rule 3 will have a predominant operation as far as the appointment of the head of Secondary School is concerned.

7 Considering the above, the Respondent – Education Officer shall consider the proposal submitted by the Petitioners seeking approval to the appointment of Petitioner No.2 as Headmaster afresh on its own merits after hearing the Petitioners and after satisfying itself about the

compliance of Rule 3, expeditiously, preferably within two months from the date of this order. The order passed would not be an impediment for considering the proposal afresh.

8 This Court vide order dated 29th April, 2014, had directed the Education Officer to approve the salary bills of teaching and non-teaching staff after verification. It is submitted that the salary bills are not sanctioned in spite of the order of this Court for November and December 2014. The Education Officer shall sanction the said salary bills, if there is no other legal impediment, expeditiously.

9 Accordingly, the writ petition is disposed. No costs.

[V.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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