

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6308 OF 2015

SAKHARAM KRUSHNAJI VARPE
VERSUS
SAHYADRI BAHUJAN VIDYA PRASARAK SAMAJ AND OTHERS

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Advocate for Petitioner : Shri Shermale K.N.
AGP for Respondent 2 : Shri Jadhav S.M.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 21, 2015

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PER COURT :-

1. An order of the Education Officer, dated 26.11.2013 is questioned by the petitioner on 15.6.2015 by this petition. Grievance is that respondent No.3 - Shri Dighe, who is presently appointed as Head Master of the concerned School, was wrongly shown as having been appointed by the concerned educational institution on 13.6.1985. His appointment date in B.Ed. scale is 9.6.1986. This has been questioned before the Education Officer in 2013 by filing an application dated 27.9.2013.

2. The petitioner further submits that the very appointment of the third respondent was questioned. It was also brought to the notice of the Education Officer that the third respondent was appointed as a Full Time Teacher on 14.6.1990. By the impugned order dated 26.11.2013, the objections of the petitioner have been overruled and it was directed to the respondent No.1 / management that they should prepare a fresh seniority list as in 2014 in accordance with Rule 12 and Schedule F of the the

Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (“MEPS Rules” for short).

3. The petitioner submits that his objection raised in the application dated 27.9.2013 has not been properly considered and despite the fact that the third respondent was given approval with effect from 1.3.1990, he is shown to be senior to the petitioner. He further submits that the order of preparing a fresh seniority list issued by the Education Officer to the first respondent institution has also not been complied with.

4. Considering the submissions of the petitioner, it is apparent that he is not shown immediately below the third respondent. There are several other Teachers who are senior to the petitioner. Many of them were complainants along with the petitioner before the Education Officer and who have signed below the application dated 27.9.2013. Nevertheless, the petitioner claims that he has suffered a legal injury by the impugned order and whether the rest of the complainants question the impugned order or not, it would not preclude the petitioner from challenging the said order.

5. The petitioner is quite right in submitting that as one amongst the complainants, he has the right to question the propriety of the order of the Education Officer, notwithstanding that the rest of the complainants who were senior to him, have challenged it or not.

6. Despite the above, I find that the complaint dated 27.9.2013 is as vague as it could be. A skeletal complaint is filed, merely contending that the date of appointment of the third respondent is wrong and illegal and his appointment shown with effect from 14.6.1990, based on which he is appointed as Head Master is also wrong. The petitioner had expected the third respondent to respond to such a vague complaint. There are no pleadings in the complaint as to what is the material based on which the nine complainants make a serious allegation that the appointment of the third respondent should be with effect from 1.3.1990 and not with effect from 13.6.1985. In the absence of specific pleadings for making out a case of an illegal appointment of respondent No.3 or an illegal date of appointment entered in the service record, could not have been entertained.

7. Nevertheless, the Education Officer has directed the educational institution to consider the tenure of employment of the third respondent for the academic years 1986 to 1988 and by following Rule 12 read with Schedule "F" of the Rules, prepare a seniority list and the same be brought to the notice of all concerned. It is informed by the learned counsel for the petitioner that the said order has not been complied with.

8. In the light of the above, I am not entertaining this petition for the reasons set out herein above. Nevertheless, after the respondent - Educational institution complies with the order dated 26.11.2013 and

prepares the seniority list, the same has to be brought to the notice of the all concerned in view of Rule 12 read with Schedule “F” of the MEPS Rules.

9. As such the petition is devoid of merits and is dismissed.

(RAVINDRA V. GHUGE, J.)

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