

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 9084 OF 2014

KAILAS BHASKAR BHAMRE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Rane Girish S.

AGP for Respondents-State: Mr. K. G. Patil

Advocate for Respondent No.4 : Mr. Amol S. Sawant

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**CORAM : S. V. GANGAPURWALA &
V. L. ACHLIYA , JJ.****DATE : 27th February, 2015****PER COURT :**

1. Mr. Rane, the learned counsel for the petitioner submits that the approval to the appointment of the petitioner as Headmaster has been negated by the Education Officer only on the ground that there is dispute amongst the management. The petitioner is the senior most teacher and is eligible to be appointed on the post of Headmaster. The proposal was forwarded. The petitioner is allowed to sign salary bills and to deal with the financial and administrative affairs as are being done by headmaster but the petitioner is given pay scale of Headmaster as per the impugned order. According to the learned counsel, when there is no dispute about the seniority of the petitioner, the impugned order is illegal.

2. Mr. Sawant, the learned counsel for the respondent no. 4 institute submits that one Manohar Patil was refrained by order of office of Charity Commissioner under Section 41E of the Maharashtra Public Trusts Act, from interfering in the management. The petitioner has filed Second Appeal before this Court and in the said Second Appeal order of status quo is passed.

3. Mr. Patil, the learned AGP submits that there is no dispute that the petitioner is a senior most person, however, considering the restraining

order passed by the Office of Charity Commissioner, the approval has been rejected. The said Manohar Patil is restrained from interfering with the Management of respondent No. 4 trust and proposal is forwarded by the committee headed by Manohar Patil.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. We have asked the learned counsel for the petitioner, the learned AGP and learned counsel for the respondents as to whether there was any objection raised to the proposal seeking approval to the appointment of the petitioner as Headmaster. The learned counsel for the respondents replied that there was no objection of any party. It is also not disputed by any of the parties before this Court that the petitioner is senior most teacher in the school.

6. Considering the above, the respondent Education Officer should have considered the proposal on its own merits. In the light of that, the impugned order is quashed and set aside. The Education Officer shall consider the proposal forwarded to it seeking approval to the appointment of the petitioner as Headmaster on its own merits, after hearing the parties concerned, expeditiously and preferably within three months.

2. Writ petition accordingly disposed of. No costs.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC