

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 1375 OF 2013

Shri Anil Sugandhrao Mali

... Petitioner

v/s

S.B.Rane High School, Naringre & ors.

... Respondents

Mr.Anand Patil for the petitioner.

Mr.Ajit Kenjale i/by Abhijit Rane for Resp. Nos.1, 2 and 4.

Mr.A.D.Kango, A.G.P. for Resp. Nos.5 and 6.

CORAM: N.M. JAMDAR, J.

DATED : 20 NOVEMBER 2015

ORAL ORDER:

By this petition, the Petitioner challenges the order passed by the School Tribunal, Kolhapur, on 6 September 2012, dismissing the appeal filed by the Petitioner.

2. The Petitioner has challenged his otherwise termination dated 1 January 2004 by way of filing Appeal No.9 of 2009 in School Tribunal, Kolhapur. The School Tribunal held that the Petitioner was not appointed after following the due process of law and that there was no clear and vacant post and he was therefore not entitled to any relief and accordingly, by the impugned order,

dismissed the appeal.

3. Learned counsel for the Petitioner submitted that the finding that there was no clear and vacant post, is incorrect and so also the finding that no procedure was followed. He submitted that an advertisement was issued and pursuant to the said advertisement, the Petitioner came to be appointed. He submitted that the original advertisement could not be produced because the newspaper has closed down.

4. The Tribunal has observed that there are no pleadings in the appeal memo as to the date on which the advertisement was issued and that an interview had taken place and the Petitioner was selected. The Tribunal also held that, issuance of an advertisement only by the Headmaster without the authority of the management, was not proper. In view of the decision of the Division Bench of this Court in the case of *Priyadarshini Education Trust & ors. v/s Ratis (Rafia) Bano*, reported in *2007 (6) Mah.L.J. 667*, before granting the relief, the School Tribunal is required to keep in mind the due procedure followed while appointing the teacher. Learned counsel for the Respondents has pointed out that the advertisement relied upon by the Petitioner shows that the qualification of 9th Standard and the Petitioner has passed only 4th Standard. Though learned counsel for the Petitioner had orally submitted that the Petitioner possesses the required qualification, no such document is placed on record even though the petition is filed in the year 2012

and is pending since then. Decision of the Division Bench is founded on the principle that the deserving candidate should be deprived by the management appointing their own candidates in an clandestine manner.

5. The advertisement appears to have been issued by the Headmaster only and no resolution of the Respondent management is placed on record. The fact that newspaper has closed down is not stated in the appeal memo and, in any case, the Division Bench in the case of *Priyadarshini* (supra), has indicated that the advertisement should be in the widely circulated newspaper. The order passed by the School Tribunal which gives effect to the law laid down by the Division Bench of this Court, cannot be termed as incorrect or perverse. No interference is therefore warranted.

6. The writ petition is accordingly rejected.

(*N. M. JAMDAR, J.*)