

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3488 OF 2014

Gangaram Atmaram Khambal	...	Petitioner
vs.		
Vidyamandir High School, through Head Master, Kanakavali & Ors.	...	Respondents

WRIT PETITION NO. 362 OF 2015

Bhikaji Jivba Magdum	...	Petitioner
vs.		
The Head Master, Vidyamandir Madhyamik Prashala, Kanakavali & Ors.	...	Respondents

Mr. Amol Mhatre, Advocate for the petitioner in W.P. No. 3488/2014.
Mr. A.R. Belge, Advocate for the petitioner in W.P. No. 362/2015 and for respondent no. 6 in W.P. No. 3488/2014.
Ms. S.S. Bhende, AGP for respondent nos. 3 and 4.
Mr. Narendra V. Bandiwadkar, Advocate for respondent no. 5.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.**

DATE : 14th January, 2015.

P.C.

Since the issues involved in these Petitions are identical, they are heard together.

By these Petitions, the petitioners have sought a declaration that the petitioners are senior to the respondent no. 5 Mr. Khot and the appointment of the respondent no. 5 on the post of Headmaster is

improper. The petitioners have also sought a declaration that they are senior to the respondent no. 5 Mr. Khot and they were entitled to be promoted on the post of Headmaster.

A preliminary objection is raised by the counsel for the respondent no. 5-Mr. Khot in Writ Petition No. 3488 of 2014 in regard to the tenability of the Writ Petitions. It is stated that by these Writ Petitions, the petitioners have in fact challenged their supersession and the promotion of respondent Mr. Khot on the post of Headmaster. It is stated that though the prayer clauses in the petitions are drafted in such a fashion that it may not apparently appear that the appointment of the respondent no. 5 is challenged, by the averments in the petitions and by the prayers made therein, it is clear that the promotion of respondent-Mr. Khot on the post of Headmaster is challenged.

On a reading of the Writ Petitions and after perusal of the prayer clauses minutely, we find that the petitioners have indeed challenged their supersession and the promotion of respondent Mr. Khot on the post of Headmaster. Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 provides for an appeal against the supersession before the School Tribunal. It is time and again held by this Court in various judgments that the issue of

seniority can as well be dealt with, by the Tribunal while considering the case of supersession. In this view of the matter, the School Tribunal would be in a position to decide the issue of seniority while considering the challenge to the supersession.

By upholding the preliminary objection raised on behalf of the respondent, we decline to entertain the Writ Petitions. The Writ Petitions are dismissed, with no order as to costs. The points raised in this Petition are, however, kept open.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)