

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10241 OF 2013

Sau.Tara Gavhane

... Petitioner

Vs.

Municipal Corporation of the
City of Thane & ors.

... Respondents

a/w

CIVIL APPLICATION NO.82 OF 2014

IN

WRIT PETITION NO.10241 OF 2013

Sau.Kunda Prakash Jagdale

... Intervener/Applicant

IN THE MATTER BETWEEN

Sau. Tara Gavhane

... Petitioner

Vs.

Municipal Corporation of the
City of Thane & anr.

... Respondents

Mr.M.S. Karnik with H.M. Inamdar for the Petitioner

Mr.Sushil Chaurasiya with Vinod Chate i/b Chate & Asso. for Intervener in
for Intervener in CAW/82/2013

Ms.S.S. Bhende, Assistant Government Pleader, for the State

Mr.Mandar Limaye for Resp. No.2

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

DATE: **27th JANUARY, 2015**

P.C.:

By this petition, the petitioner challenges the order of the Education
Officer, Thane Municipal Corporation, dated 24.10.2013 holding that the

respondent No.3 was the seniormost teacher and was entitled to be temporarily promoted on the post of Supervisor – Bit Officer.

On hearing the learned Counsel for the parties and on a perusal of the impugned order, we find that the Education Officer has not recorded any reason for holding that the respondent No.3 was the seniormost of the 5 teachers and was entitled for promotion. On a reading of the order, we find that there is no mention of the date of appointment of the 5 teachers in the school and the dates on which the 5 teachers acquired the necessary qualifications for being placed in the seniority list is also not mentioned. While deciding the issue of seniority, it is incumbent on an authority to consider the dates on which the candidates were appointed and the dates on which they acquired the necessary qualifications. However, since this exercise does not appear to have been done by the Education Officer, the impugned order is liable to be quashed and set aside.

Hence, for the reasons aforesaid, the Writ Petition is partly allowed. The impugned order of the Education Officer is quashed and set aside. The Education Officer is directed to decide the issue of *inter se* seniority between the 5 teachers afresh, in accordance with law. The concerned teachers undertake to appear before the Education Officer on 5.2.2015 so that the issuance of notice to the teachers could be dispensed with. The

Education Officer is directed to decide the issue of seniority within a period of 6 weeks from the date of appearance of the parties before the Education Officer.

Order accordingly. No costs.

With the disposal of the Writ Petition, Civil Application also stands disposed of.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)