

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.869 OF 2013

Govind Abaji Yadav

... Petitioner

Vs.

The State of Maharashtra & Ors.

... Respondents

Dr.Suresh Mane for Petitioner

Mrs.Anjali Helekar, Assistant Government Pleader, for Resp. Nos.1, 2 & 3

Mr.A.G. Kothari for Resp. Nos.4 to 6

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

DATE: 10th FEBRUARY, 2015

P.C.:

By this petition, the petitioner seeks a direction to the respondent Nos.4 and 5 – Bombay Institute of Deaf and Mute, to consider the petitioner for appointment on the post of Principal in the Respondent No.4 School as the petitioner is the seniormost teacher in the said school. The petitioner challenges the appointment of the respondent No.6 on the post of the Principal. The petitioner also seeks a direction to the competent officer/authority of the State to hold a proper enquiry in respect of the issuance of minority status certificate dated 14.1.2009, to the respondent No.4.

It appears on hearing the learned Counsel for the parties that the petitioner has an alternate remedy for challenging the minority status certificate issued by the respondent No.1 in favour of the respondent No.4. The petitioner is entitled to make a complaint to the competent authority as regards the veracity of the minority status of the institution in view of the Government Resolution dated 4.7.2008. The competent authority is required to look into the matter and decide the issue after giving a reasonable opportunity to the parties, of being heard. The grounds for revoking the recognition of the minority status are also mentioned in the Government Resolution. It is further provided that an appeal shall lie to the National Commission for Minority Educational Institutions against any order passed by a competent authority. Without availing the alternate remedy, the petitioner has approached this Court seeking the cancellation of the certificate issued by the respondent No.1 in favour of the respondent No.4.

Since the respondent No.4 is a recognised minority institution, the respondent No.4 was entitled to appoint a principal of its choice. The respondent No.4 was not obliged to appoint the seniormost teacher on the post of Principal in a minority institution. Merely because on some of the previous occasions, despite the minority status, the respondent No.4 had appointed the seniormost teachers as the principal in the school, would not

give a right to the petitioner to claim the post of Principal on the ground that the petitioner is the seniormost teacher.

Also, the Special Code of 1997 for the Physically Challenged would not come to the rescue of the petitioner for seeking promotion of the seniormost teacher to the post of Principal. Even assuming that the Code so provides, the petitioner cannot claim the benefit of the provisions of the Code as the respondent No.4 is a recognised minority institution and is entitled to appoint the Principal of its choice.

In the result, the petition fails and is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)