IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.2899/2015

913 WRIT PETITION NO. 2899 OF 2015

BHUMANNA RAMANNA CHILWARWAR
VERSUS
SHRI SANT GADGEBABA SHIKSHAN PRASARAK MANDAL, NANDED AND OTHERS
...
Advocate for Petitioner : Mr. Salunke V.D.
AGP for Respondent State: Mr. U.H.Bhogle
Mr. Gunale V.D., Adv., For R/2
Mr. P.D.Bachate, Adv., for respondent No.1
Mr.Gastgar Santosh B., Adv., for R/4.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: January 27, 2016
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PER COURT :-

1. Heard the Counsel for the parties. Perused the pleadings in the petition, annexures thereto, and also the reply filed by the respondents and annexures thereto.

2. Learned Counsel for the petitioner submits that the application / representation filed by the petitioner on 18th September, 2014, addressed to respondent no.1 of which copy was marked to other respondents, including the Education Officer, Secondary, Zilla Parishad, Nanded, is not decided, and respondent no.3 proceeded to communicate respondent no.2 by letter dated 1st December, 2014, granting approval to the promotion of respondent no.4 to the post of Supervisor. It is submitted that, the Education Officer ought to have taken decision on the said representation. He further invited our attention to the letter dated

7th November, 2014, written by the Education Officer, Secondary, Zilla Parishad, Nanded, addressed to respondent no.1 and submits that, as a matter of fact, after verifying the factual aspect and record, prima facie opinion was expressed by the petitioner that, the petitioner herein is senior to respondent No.4, however, that is also not taken into consideration while granting approval to the promotion of respondent no.4 as a Supervisor. Therefore, the Counsel for the petitioner submits that, if it is not possible to consider the prayers in the petition as it is, at least, the Education Officer, Secondary, Zilla Parishad, Nanded, may be directed to re-consider the entire issue of promotions to the post of Supervisor after hearing the concerned parties and verifying the record.

3. In response to the argument of the learned Counsel appearing for the petitioner, learned Counsel appearing for respondent no.4, relying upon the averments made in the affidavit in reply, submits that, in case the petitioner is aggrieved, he can avail of the remedy of appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 or, can file appeal before the Deputy Director of Education, as the case may be. He further submits that the Education Officer, in pursuance to the directions issued by the High Court, considered the representation of the petitioner, and after hearing all concerned, has granted approval to the promotion of the petitioner as a Supervisor, by the impugned communication dated 1st December, 2014, addressed to respondent no.2. At the cost of repetition, he submits that respondent no.4 is senior-most

teacher and the promotion is rightly given to respondent no.4 as Supervisor and approval is also granted by the Education Officer to such promotion keeping in view the seniority of respondent no.4 and the record maintained by respondent no.1.

4. During the course of hearing, some controversy is raised by the Counsel appearing for the parties about, who is in the management. In our opinion, for the purpose of deciding the present petition, it is not necessary for us to enter into the said controversy; suffice it to say that, respondent no.3 is competent officer to decide the controversy raised in the petition.

5. After hearing the submissions made by the learned Counsel for the parties and perusing the material placed on record, we are of the opinion that the respondent no.3 without deciding the representation of the petitioner dated 18th September, 2014, and without hearing him, and also respondent no.1, should not have proceeded to approve the promotion of respondent no.4, as a Supervisor. Even the approval granted to promotion of respondent no.4 is on the condition that, in case the factual figures about the strength of the students and the Divisions is found incorrect, it would be the responsibility of the Headmaster of the concerned school. It further appears that there is a footnote, while passing the order granting approval, that the promotion of respondent no.4 as a Supervisor, is subject to conditions mentioned in the said footnote. In that view of the matter, in our opinion, ends of justice would be met in case respondent no.3 is

directed to reconsider the entire issue in the light of the contents of the representation of the petitioner dated 18th September, 2014, which is placed at Exh.D, page no.33 of the compillation of the writ petition, of which copy is addressed to respondent no.3, and after hearing the petitioner and respondent no.4, and the management, take appropriate decision keeping in view the relevant record maintained by respondent nos. 1 and 2 as expeditiously as possible, however, within three months from today. The petitioner, respondent no.4, and respondent nos. 1 and 2 to appear before respondent no.3 on 5th February, 2015. It will be open for respondent no.3 to hear the parties on the same date or fix some other date thereafter, and take decision afresh keeping in view the record maintained by respondent nos. 1 and 2. The petition is partly allowed and the same stands disposed of in above terms.

The parties to act upon the authenticated copy of this order.

(P.R. BORA, J.) (S.S. SHINDE, J.)

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agp/-