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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1224 OF 2012

Soma Vaman Shelkande and ors Petitioners.
V/s.
The State of Maharashtra and others Respondents

Mr. M. B. Gawade, for the petitioners
Mrs. M. P. Thakur, A.G.P., for the Respondent Nos 1 to 3.
Mr. Saurabh Pakale i/by A. R. Belge for respondent Nos. 5 to 7.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 5th APRIL, 2016.

P.C. :

1. Heard learned counsel for the respective parties.
2. By this petition filed under Article 226 of the Constitution of India, the petitioners are challenging the order of respondent No.4 fixing the seniority of the primary teachers. The petitioners contend that though they are appointed earlier in time to respondent Nos. 5, 6 and 7, still respondent Nos 5, 6 and 7 are shown as senior to them.
3. We have perused the order of Administrative Officer of respondent No.4 alongwith the seniority list. The petitioners though appointed earlier to respondent Nos 5, 6 and 7, their qualification was only S.S.C. at the relevant time and respondent Nos 5 to 7 were H.S.C. D.Ed

and therefore respondent Nos 5 to 7 were qualified to be as primary teachers. The petitioners acquired D.Ed qualification subsequent to the appointments of respondent Nos 5 to 7. The Administrative Officer of respondent No.4, therefore, correctly considered the provisions under Rule 12 read with Schedule F of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and fixed seniority list.

2. Learned counsel for the petitioner relied upon the following decisions:-

i) Pramod Devaram Bhangale -vs- State of Maharashtra, 2007 (3) Bom. C.R. 480

ii) Chintaman Ramaji Mahakalkar -vs- Education Officer (Primary), Zilla Parishad, Wardha and ors. 2003 III CLR 539.

iii) Viman Vaman Awale -vs- Gangadhar Makhriya Charitable Trust & ors 2014 DGLS (Soft) 498.

3. We have gone through the same. These decisions, however, are not applicable to the present case inasmuch as at the time of appointment of petitioners, they were only S.S.C and not qualified to be appointed as Primary Teachers.

4. In the above circumstances, the petition holds no merit and the same is dismissed accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]