

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5990 OF 2013**

|                                                            |                  |
|------------------------------------------------------------|------------------|
| Sadhana Vijay Chaudhari                                    | .... Petitioner  |
| V/s.                                                       |                  |
| The President / Chairman,<br>Chindren's Aid Society & Ors. | .... Respondents |

Mr. R.G. Panchal a/w. Mr. A.R. Metkari for the  
Petitioner.

Mr. R.J. Dhond for Respondent No.5.

Mr. V.N. Sagre, A.G.P., for Respondent Nos.4 and 6.

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

**DATE : 7<sup>TH</sup> MARCH 2016.**

**P.C. :**

1. Heard learned counsel for the Petitioner, Respondent No.5 and learned A.G.P. None appears for Respondent No.1, despite notice.
  
2. This Petition is filed challenging the order dated 10<sup>th</sup> June 2013 issued by Respondent No.4. The Petitioner has sought further direction to Respondent Nos.2, 3 and 4 to appoint the present Petitioner as Head Mistress in Respondent No.3-School.
  
3. By order dated 10<sup>th</sup> June 2013, Respondent No.5 was given authority to sign the important papers and salary bills for the period from

10<sup>th</sup> June 2013 to 15<sup>th</sup> July 2013. The learned counsel for, both, the Petitioner and Respondent No.5 do not dispute that this authority given to Respondent No.5 is extended from time to time and today also Respondent No.5 is signing important papers and salary bills.

4. Petitioner claims that she is senior to Respondent No.5 and Respondent No.5 claims that she is senior to the Petitioner. Both, the Petitioner and Respondent No.5, claim to be appointed on the same day on 13<sup>th</sup> June 1987. The Petitioner claims that she was appointed on clear vacancy and Respondent No.5 was appointed on a vacancy for reserved category and she has been given approval only in the year 1990. Respondent No.5, on the contrary, alleged that the Petitioner, on the date of appointment, was not a trained graduate and Respondent No.5, however, was a trained graduate and, therefore, Respondent No.5 is senior to the Petitioner. The stand of learned A.G.P. is that, both, the Petitioner and Respondent No.5, were appointed on the same day and Respondent No.5, being senior in age, she is entitled to be promoted as Head Mistress.

5. The aforesaid discussion shows that the main issue is about inter-se seniority between the Petitioner and Respondent No.5. In terms of the provisions of Rule 12(3), this inter se seniority is required to be decided by Respondent No.4 - the Education Officer, after hearing the concerned parties.

6. In the above circumstances, we dispose of the Petition by passing following order :-

**“O R D E R”**

- (i) Respondent No.4 – Education Officer (Secondary), Brihanmumbai North Division, Chembur (East), Mumbai, shall decide the inter-se seniority between the Petitioner and Respondent No.5 within a period of four weeks from the date of receipt of this order.
- (ii) Respondent Nos.1 and 3 shall promote the senior most employee to the post of Head Master/Head Mistress within four weeks thereafter.
- (iii) All the points and contentions of respective parties in this regard are expressly kept open, to be agitated before Respondent No.4 - the Education Officer (Secondary), Brihanmumbai North Division, Chembur (East), Mumbai.

**[DR. SHALINI PHANSALKAR-JOSHI, J.]**

**[RANJIT MORE, J.]**