

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

WRIT PETITION (STAMP) NO.26233 OF 2014

Mrs. Sonali Rohan Bane	...	Petitioner
V/s.		
The State of Maharashtra & Ors.	...	Respondents

Mr. Bandiwadekar for the Petitioner.
Mr. P.G. Sawant, AGP for Respondent Nos.1, 2, 3 and 5/State.

**CORAM : NARESH H. PATIL AND
A.A. SAYED, JJ.**

3rd March, 2016.

P.C.

1 Petitioner claims that she was promoted as Head Mistress with effect from 11 June 2013. The Respondent Management forwarded a proposal for approval to her promotion. By communication dated 28 April 2014 the Assistant Commissioner, Social Welfare, Mumbai Suburban refused approval while observing that the promotion ought to have been given by following seniority.

2 Learned Counsel appearing for the Petitioner submits that the persons who are senior to the Petitioner are not qualified to be promoted. The required qualification for the post is Diploma, which the Petitioner is possessing and others are not.

3 In the facts we find it appropriate to observe that the Assistant Commissioner, Social Welfare, Mumbai Suburban ought to have issued notices to the employees who are seniors to the Petitioner in

the list maintained by the Respondent Management and after hearing the concerned parties, appropriate decision be taken.

4 Without expressing any opinion on the merits of the claim of the Petitioner, we are inclined to remand the matter back to the Respondent No.3 Assistant Commissioner, Social Welfare, Mumbai Suburban.

Order

- i) The Impugned order/communication dated 28 April 2014 is set aside. The matter is remanded back.
- ii) Respondent No.3 Assistant Commissioner, Social Welfare, Mumbai Suburban is directed to issue notice to the Petitioner, Respondent - Management and the persons/employees who are seniors to the Petitioner in service and thereafter take an appropriate decision in respect of the proposal submitted by the Respondent Management in respect of seeking approval to the promotion of the Petitioner. This exercise shall be completed within two months.
- iii) Writ Petition is disposed of in the above terms.

(A.A. SAYED, J.)

(NARESH H. PATIL, J.)