

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11677 OF 2012

Dnyanoba Ramkrishna Kale.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Samir Kumbhakoni for the Petitioner.

Mr. P. G. Sawant, AGP for Respondent No. 1 to 3.

Mr. R. S. Alagne for Respondent No. 4.

Mr. S. S. Kanetkar for Respondent No.5.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 10, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. In the light of observations made by this Court in the order dated 13th April 2012 in Writ Petition No. 598 of 2012, especially paragraph No.7 of the said order, we do not find any error in the order impugned in this writ petition. Paragraph 7 of the order dated 13th April 2012 reads thus :

“7. The argument, though attractive at the first blush, will have to be rejected. It is not in dispute that the petitioner in the first Petition - Mrs. B.A. Shaikh is the senior most teacher and the petitioner in the second Petition - Dnyanoba R. Kale is second in the order of seniority. So long as the petitioner in the first Petition continues as Headmistress, the petitioner in the second Petition will have no right to be appointed or, for that matter, even to be considered for

appointment on the post of Headmaster of the respondent – school. Moreover, the Education Officer having withdrawn his order dated 2nd November 2011, which was the cause for issuance of order dated 5 January 2012, directing the management to nominate the petitioner in the second Petition as Incharge Principal would not survive and must be treated as lapsed. Inasmuch as status-quo ante 2nd November 2011, will have to be restored, which means the petitioner in the first Petition continues to be the Headmistress of the school whose appointment has already been approved by the Education Officer. As a matter of fact, the order passed by the Education Officer dated 2nd November 2011 was without authority of law. It is well established position that the Education Officer has no power to review his own order of approval. ”

2. Be that as it may, the Petitioner has already retired from the service. In the backdrop of the above, we are not inclined to entertain the writ petition and the same is accordingly dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]