

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 2098 of 1998

District : Ahmednagar

Mhatardeo s/o. Vithoba Temkar,
Aged : 41 years,
Occupation : Service as
Head Master,
New English School (Old) and
(New) Shri Gurudas Bhaskar
Giri Maharaj Vidyalaya,
R/o. At Post Jalake,
Taluka Newasa,
District Ahmednagar.

.. Petitioner.

versus

1. Shri Pandurang s/o. Rangnath
Kurhe,
Age : Major,
Occupation : Service
as Asst. Teacher in New
English School (Old),
(New) Gurudas Bhaskar Giri
Maharaj Vidyalaya,
At & Post Jalake,
Taluka Newasa,
District Ahmednagar.
2. Samata Shikshan Prasarak Mandal,
Kharwandi,
through its Secretary,
Shri Keshav s/o. Ananda Thorat,
Age : Major,
R/o. Kharwandi,
Taluka Newasa,
District Ahmednagar.
3. Shri Shivaji s/o. Yeshwant
Kolte,
Age : 40 years,
Occupation : Asst. Teacher,
R/o. Jalake,
Taluka Newasa,
District Ahmednagar.

4. Shri Ramkisan s/o. Bhanudas
Raut,
Aged : 38 years,
Occupation : Service,
as Asst. Teacher in
New English School (Old)
and (New) Gurudeo Bhaskargiri
Maharaj Vidyalaya, Jalake,
Residing at Jalake,
Taluka Newasa,
District Ahmednagar.
5. The Deputy Director of Education,
Pune Division, Pune,
Dr. Ambedkar Road,
Pune - 411 001.
6. The Education Officer
(Secondary),
Zilla Parishad,
Near Old S.T. Stand,
Ahmednagar.
7. The Presiding Officer,
School Tribunal,
Pune Region,
Sahastraarjun Mangal
Karyalaya, Sidheshwar Peth,
Solapur,
Taluka & District Solapur. .. Respondents.

.....

Mr. R.J. Godbole, Advocate, for the petitioner.

Mr. V.D. Sapkal, Advocate, for respondent no.01.

Respondent nos.02 and 03 served (Absent).

*Mr. A.B. Kadethankar, Advocate, for respondent
no.04.*

*Mr. S.P. Tiwari, Asst. Government Pleader, for
respondent nos.05 and 06.*

Respondent no.07 served (formal party).

.....

With

Writ Petition No. 0716 of 1999

District : Ahmednagar

Pandurang Rangnath Kurhe,
Age : 35 years,
Occupation : Service,
R/o. Jalke Kh.,
Taluka Newasa,
District Ahmednagar.

.. Petitioner.

versus

1. The State of Maharashtra.
2. Dy. Director of Education,
Pune Region, Pune.
3. Education Officer,
Zilla Parishad,
Ahmednagar.
4. President,
Samata Shikshan Prasarak
Mandal,
At & Post Khardwadi,
Taluka Newasa,
District Ahmednagar.
5. Secretary,
Samata Shikshan Prasarak
Mandal,
At & Post Khardwadi,
Taluka Newasa,
District Ahmednagar.
6. Mhatardeve Vithoba Temkar,
Age : 38 years,
Occupation : Service,
R/o. C/o. New English School
at Jalke Kh.,
Taluka Newasa,
District Ahmednagar.
7. Shri Shivaji Yashwant Kolte,
Age : 37 years,
Occupation : Service,

R/o. C/o. New English School
at Jalke Kh., Taluka Newasa,
District Ahmednagar.

8. Shri Ramkisan Bhanudas Raut,
Age : 35 years,
Occupation : Service,
R/o. C/o. New English School
at Jalke Kh.,
Taluka Newasa,
District Ahmednagar.

.. Respondents.

.....

Mr. V.D. Sapkal, Advocate, for the petitioner.

*Mr. S.P. Tiwari, Asst. Government Pleader, for
respondent nos.01, 02 and 03.*

Respondent nos.04 and 05 served (Absent).

*Mr. R.J. Godbole, Advocate, for respondent
no.06.*

Mr. R.P. Phatake, Advocate, for respondent no.07.

Respondent no.08 served (Absent).

.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 02ND MARCH 2017

ORAL JUDGMENT :

01. Both the petitioners in these petitions have challenged the same judgment of the School Tribunal, dated 12.12.1997, by which the appointment of the first petitioner Mr. Temkar as a Headmaster was set aside and the management was directed to consider the Mr. Kurhe petitioner in the second petition for appointment to the post of Headmaster as per the rules.

02. While issuing notice on 29.05.1998 in the first petition, Mr. Temkar was protected and he continued as Headmaster of the concerned school. By order dated 23.11.1998, this petition was admitted and the impugned judgment was stayed. Mr. Temkar consequentially continued as the Headmaster and retired on 31.05.2015.

03. It is informed that another senior Teacher Shri Shivaji Yashwant Kolte has relinquished his right as Headmaster of the school on 12.06.1990. He has a few months left for attaining the age of superannuation. He is a party to these proceedings.

04. Shri Sapkal, learned Advocate appearing on behalf of the petitioner Mr. Kurhe in the second petition, submits that the incumbent Headmaster of the school, Mr. D.L. Barve has recently retired on 27.02.2017 which is just 04 days prior to the hearing of this petition. As on date, the post of Headmaster is vacant.

05. Considering the above, the first petition filed by Mr. Temkar is rendered infructuous and is, therefore, disposed of. It is made clear, that the disposal of the first petition would not be an impediment for the said petitioner Mr. Temkar from claiming his retiral benefits on the post of Headmaster, if there is no other legal impediment. Rule is discharged.

06. In so far as the second petition filed by Mr. Kurhe is concerned, it is claimed by him that he is presently the senior most Teacher qualified to be the Headmaster in the said school, notwithstanding the fact that Mr. Kolte though senior to Mr. Kurhe has purportedly relinquished his right to be the Headmaster.

07. There can be no debate that Rule 03 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 [**For short, "MEPS Rules"**] is with regard to qualifications and appointment of the head of the institution. The relevant provisions in relation to the claim of Mr. Kurhe would be Sub-Sections 1(b), 2, 3 and the Explanation below Sub-Section 3. It also requires no debate that when there is a vacancy of the head of the institution, the senior most qualified Teacher having a satisfactory record of service is to be called upon to submit his willingness for appointment to the said post within a period of 15 days from the date of receiving such an invitation.

08. Suffice it to say that as the post of Headmaster of Gurudas Bhaskargiri Maharaj Secondary School, Jalke, Taluka Newasa, District Ahmednagar [Earlier known as "New English School, Jalke"] has fallen vacant on account of the superannuation of Mr. D.L. Barve, respondent nos.04 and 05 - management is now expected to scrupulously follow Rule 03 of the

MEPS Rules for appointment of a new Headmaster.

09. Despite service of Court notice, respondent nos.04, 05, 07 and 08 have not appeared in this petition.

10. Considering the above, the petition filed by Mr. Kurhe bearing No. 0716 of 1999 is disposed of with the direction to respondent nos.04 and 05 to scrupulously follow the scheme enunciated in Rule 03 of the MEPS Rules and especially Sub-Rule 03 and the Explanation there below while appointing the Headmaster. They shall accordingly extend an invitation to the senior most Teacher today, having satisfactory record of service as set out in the Explanation, for obtaining his willingness for appointment to the post of Headmaster. If the petitioner Shri Kurhe is also eligible for the same, the management may extend an invitation to him in accordance with the Explanation below Sub-Rule 03 of Rule 03 of the MEPS Rules, unless there is any legal impediment.

11. Rule in both these petitions is, therefore, discharged.

(Ravindra V. Ghuge)
JUDGE

.....