

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.112 OF 1998

Savale Pandit Holkar,
Age-Major, Occu-NIL,
R/o Taradhi, Tal.Shirpur,
Dist.Dhule

-- PETITIONER

VERSUS

1. The State of Maharashtra,
through Education Officer,
(Secondary),
Zilla Parishad, Dhule,

2. Sahebrao Sona Patil,
Chairman, Tapi Parisar Vidya
Prasarak Sanstha, Tarhadi,
Tq.Shirpur, Dist.Dhule,

3. G.S.Thakur,
Head Master,
Tapi Parisar Vidya Prasarak Sanstha
Sanchalit Madhyamik Vidyalaya,
Tarhadi, Tal.Shripur,
Dist.Dhule

-- RESPONDENTS

Mrs.A.N.Ansari, Advocate for the petitioner.

Mr.S.N.Kendre, AGP for respondent No.1.

Mr.Faiz Khan h/f Mr.P.R.Katneshwarkar, Advocate for respondent No.2.

Mr.S.P.Brahme, Advocate for respondent No.3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2017

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment dated 01/12/1997,

by which the appeal filed u/s 9 of the MEPS Act has been dismissed u/s 11(1) on account of there being no cause of action.

2. I have heard the strenuous submissions of the learned Advocate for the petitioner, the learned AGP, Mr.Brahme learned Advocate appearing on behalf of respondent 3 and Mr.Katneshwarkar, learned Advocate for respondent No.2.

3. It appears from the pleadings in the memo of the petition, the pleadings before the School Tribunal and the submissions of the learned Advocate for the petitioner that the petitioner had approached the School Tribunal u/s 9 claiming that he was superseded in being appointed as the 'Head Master'. There is no dispute that the senior most eligible teacher in a school has the right to be the 'Head Master' of the School. However, the petitioner based his claim to the post of Head Master considering his seniority. The said seniority as was placed before the Tribunal indicates that respondent No.3 herein was shown to be senior to the petitioner.

4. Grievance of the petitioner, therefore, is that the seniority has been wrongly maintained, the petitioner is senior to respondent No.3 and based on the said seniority, the petitioner would get a right to be

the Head Master. Record however reveals that the seniority has not been challenged by the petitioner under Rule 12 of the MEPS Rules, 1981.

5. The learned Full Bench of this Court in the matter St.Ulai High School Vs. Shri Devendraprasad Jagannath, [2007(109) Bom.L.R. 60 = 2007(1) Mh.L.J. 597] while considering the scope of Section 9 and the jurisdiction of the School Tribunal, has concluded that the jurisdiction of the Civil Court would be ousted to the extent of the causes of action falling under section 9(1)(a) and (b) of the MEPS Act. While arriving at such conclusions, the learned Full Bench has observed that in so far as violation of seniority or grievances about the seniority are concerned, such grievances can be raised under Rule 12 before the Education Officer and being aggrieved by the decision of the Education Officer, the employee can approach this Court if no action pursuant to the decision of the Education Officer is taken by the management, which would fall under either of the clauses under section 9(1).

6. In this case, the entire grievance of the petitioner is with regard to the seniority of respondent No.3 having been shown over and about the petitioner. This has not been challenged under Rule 12 in

as much as the petitioner has not made a request under Rule 12 to the Education Officer to decide the seniority of these employees. Consequentially, this issue could not have been gone into by the School Tribunal.

7. In paragraph No.7 of the impugned judgment, the Tribunal has concluded that the petitioner did not produce a copy of his appointment order and did not place a single document before the Tribunal in support of his contention.

8. Considering the above, I do not find that the Tribunal has committed any error while delivering the impugned judgment. Same cannot be termed as being perverse.

9. This petition is, therefore, dismissed and Rule is discharged.

(RAVINDRA V. GHUGE, J.)