

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 408 OF 2017

GOPAL WAMANRAO MORE
VERSUS
THE EDUCATION OFFICER (S) ZP NANDED AND OTHERS

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Advocate for Petitioner : Shri Sawant V.P.
h/f Shri Gaikwad A.M.
AGP for Respondent 1 : Shri Kendre S.N.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 24, 2017

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PER COURT :-

1. The petitioner is aggrieved by the judgment of the School Tribunal dated 1.4.2016, by which, Appeal No.19 of 2014 filed by the petitioner has been dismissed only on the ground that the School Tribunal does not have the jurisdiction to entertain a cause of action pertaining to the refusal of grant of approval or the pendency of the proposal for approval.

2. The contention of the petitioner is that the Head Master had filed representations to the Education Officer in between July 2009 to January 2011, requesting the Education Officer to grant permission for filling up two posts. Thereafter, an advertisement was published and the petitioner was selected as a Shikshan Sevak.

His proposal was forwarded for approval on 7.3.2012. On 27.2.2013, the management requested the Education Officer to decide the proposal. Having failed in doing so, the petitioner moved the grievance committee, which was constituted under the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("MEPS Rules" for short). The said committee transferred the matter to the School Tribunal on 5.3.2014, which was registered as Appeal No.19 of 2014. Grievance is that such an appeal should not have been dismissed on the ground of lack of jurisdiction.

3. Shri Kendre, learned AGP relies upon the judgment of the learned Division Bench of this Court in the matter of Arti Vithalrao Warkhede Vs. Education Officer (Secondary) [2011 (1) Mh. L.J. 638] and contends that any cause of action beyond Section 9(1)(a) and (b) cannot be entertained by the Tribunal. If the rejection or refusal of approval is followed by an action by the management of terminating the services, then the Tribunal while going into the issue of termination can consider the reasons for rejection of approval as an ancillary issue.

4. I find that the only grievance of the petitioner was that the Education Officer was not taking a decision on the proposal for

approval. The learned Full Bench of this Court in the matter of St. Ulai High School and another Vs. Devendraprasad Jagannath Singh and others [2007 (1) Mh.L.J. 597], has concluded in paragraph No.13 that the jurisdiction of the Tribunal would be restricted to Section 9(1)(a) and (b). If the seniority issue under Rule 12 is the cause of action, same would not lie before the Tribunal unless it is followed by an action by the management which would fall under sub-clauses (a) or (b) of Section 9(1).

5. So also, in my view, the Grievance Committee created by a Resolution of the State Government cannot invest jurisdiction in the School Tribunal, which is beyond the inherent jurisdiction of the Tribunal. The power to enlarge the jurisdiction cannot vest in an executive fiat. Alteration in jurisdiction can only be done by the legislature.

6. Considering the above, this petition being devoid of merits is, dismissed.

7. Nevertheless, the petitioner cannot be rendered remediless. In the event he approaches the Education Officer for deciding his proposal for approval, the Education Officer (Secondary), Zilla Parishad, Nanded shall decide the same by following the due

procedure of law within a period of four months from the date of receipt of the representation of the petitioner.

(RAVINDRA V. GHUGE, J.)

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