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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. NO.1257 OF 2017**

Ashadevi Kailashram

.... Petitioner.

V/s

Administrative Officer,
Education Department,
Municipal Corporation of Greater Mumbai
and Others

....Respondents.

Mr. Mihir Desai, Senior Counsel a/w Mr. Sarnath Sariputta for the
Petitioner.

Ms. Geeta Jogalekar for Respondent No. 1 and 2 – MCGM

Mr. Kedar Dighe, Asstt. Govt. Pleader for Respondent No.3 – State.

Mr. N.R. Bubna a/w Mr. F.A. Wasif for Respondent No.4.

**CORAM: B. R. GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE: 5th October, 2017

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard, by consent of parties.

2] Petitioner has approached this Court being aggrieved by the Order dated 21/04/2017 vide which, Petitioner has been reverted

from the post of Headmistress to the post of Assistant Teacher.

3] Petitioner was initially appointed as Shikshan Sevak for teaching in Hindi Medium School, run by the Respondent – Corporation. Petitioner's services were regularized on 1/04/2005 and the Petitioner attained the status of Assistant Teacher with effect from 01/04/2008.

4] Petitioner belongs to N.T.B. Category and, as such, in view of the reservation provided for candidates belonging to N.T.B. Category, Petitioner came to be promoted as Headmistress vide order dated 19/09/2013. Petitioner, thereafter, is regularly working as Headmistress.

5] However, it appears that Respondent No.4 made a representation to the Corporation that he was entitled to be promoted in place of the Petitioner. Acting on the said representation, the impugned order is passed. It is not in dispute that prior to passing of the impugned order, Petitioner was neither given any notice nor an opportunity of being heard before passing the impugned order.

6] In that view of the matter, we find that Petition deserves to be allowed on the short ground of non-observance of the principles of natural justice.

7] Rule is, therefore, made absolute in the following terms:-

(i) Impugned order is quashed and set aside.

(ii) The Education Officer of the Respondent – Corporation is directed to give an opportunity of hearing to the Petitioner as well as Respondent No.4 and pass an order, after hearing the parties in accordance with law. The same shall be done within a period of four weeks from today.

(iii) Petitioner as well as Respondent No.4 shall remain present before the Education Officer on 11/10/2017 and, as such, requirement of formal notice, stands waived.

(iv) Interim protection granted by this Court shall continue to operate till the decision is taken afresh by the Respondent - Education Officer.

(SANDEEP K. SHINDE, J.)

(B. R. GAVAI, J.)