

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4201/2015

Shri Purushottam s/o Parasram Masurkar

...Versus...

Sant Narhari Shikshan Sanstha through its Secretary Shri Bhaskarrao Domale
and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.U. Nandanwar, Advocate for petitioner
Shri S.R. Charpe, Advocate for respondent nos.1, 5 & 6
Ms Hemlata Jaipurkar, AGP for respondent no.7

CORAM : SMT. VASANTI A NAIK , J.

DATE : 30.01.2017

By this petition, the petitioner seeks a direction against the respondent – Education Officer to decide the issue of *inter se* seniority, vis-a-vis the petitioner and the respondent nos.5 and 6. The petitioner has challenged the promotion of the respondent no.5 as an Assistant Headmaster and the respondent no.6 as a Supervisor.

The learned Counsel for the petitioner states that though the petitioner had raised an objection to the seniority list before the Management and the matter in respect of seniority, vis-a-vis the petitioner and the respondent nos.5 and 6 was referred to the Education Officer, the Management wrongly promoted the respondent no.5 to the post of Assistant Headmaster and the respondent no.6 to the post of Supervisor and the Education Officer granted approval to their promotion

without deciding the issue of seniority. It is stated that a direction be issued to the Education Officer to decide the issue of seniority between the petitioner and the respondent nos.5 and 6.

Shri Charpe, the learned Counsel for the respondent nos.1, 5 and 6 raises a preliminary objection to the tenability of the writ petition. It is stated that if the petitioner is aggrieved by the promotion of the respondent no.5 and 6, it would be necessary for the petitioner to file an appeal under the provisions of Section 9 of the MEPS Act. It is submitted that the issue of seniority, vis-a-vis the petitioner and the respondent nos.5 and 6 can also be decided by the School Tribunal, as held by the Full Bench of this Court.

By upholding the preliminary objection raised on behalf of the respondents, it would be necessary to dispose of the writ petition. Since the respondent nos.5 and 6 are promoted, it would be necessary for the petitioner to challenge their promotion before the School Tribunal, if the petitioner is aggrieved by the same. The issue of *inter se* seniority between the petitioner on one hand and the respondent nos.5 and 6 on the other could as well be decided by the School Tribunal in the appeal filed by the petitioner.

In the circumstances of the case, the writ petition is disposed of with no order as to costs. The points raised in the petition are kept open.

JUDGE