

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5840 OF 2012**

Mahesh Mahadev Metakari. ... Petitioner.

V/s.

State of Maharashtra & ors. ... Respondents.

Mr. Sandeep Phatak, advocate for petitioner.

Mr. S.B. Kalel, AGP for State.

Mr. I.M. Khairdi, advocate for respondent No. 7.

**CORAM : RANJIT MORE &
SMT. SADHANA S. JADHAV, JJ.**

DATE : MARCH 5, 2018.

P. C. :

1 Heard Mr. Pathak, learned Counsel for the petitioner, Mr. Khairdi, learned Counsel for respondent No. 7 and learned AGP for State.

2 By this Petition, the petitioner is challenging the appointment and approval of respondent No. 7 as Head Master of respondent No. 4-school.

3 At the outset, Mr. Khairdi took an objection to the

maintainability of Petition on the ground that alternative remedy of appeal under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 is available.

4 Mr. Pathak, learned Counsel for the Petitioner submitted that the petitioner is not disputing that respondent No. 7 is senior to him. It is also not the case of the petitioner that he has been superseded. Mr. Pathak submitted that the appointment of respondent No. 7 is challenged as he was not eligible to be promoted to the post of Head Master of respondent No. 4-school. The submissions of Mr. Pathak are based on his allegation that the caste validity certificate was submitted by respondent No. 7 on 23/11/2010 and the petitioner has submitted similar certificate in the year 2003. The case of the Petitioner is that respondent No. 7 submitted caste validity certificate much later than the Petitioner and therefore, he is not eligible for promotion to the post of Head Master.

5 The submission of Mr. Pathak, learned Counsel for the petitioner is misconceived. There is no dispute that both the petitioner as well as respondent No. 7 belong to Nomadic Tribe-C category and both were appointed on the same day i.e. on 11/8/2003 as Shikshan Sevak in respondent No. 4 school. The Petitioner submitted his caste validity

certificate in 2003 and respondent No. 7 submitted his caste validity certificate in the year 2010. This however, will not make any difference in as much as the respondent No. 7 was promoted to the post of Head Master after 6 years after submitting his caste validity certificate. Merely because the petitioner submitted his caste validity certificate earlier in point of time than respondent No. 7, that cannot be the ground to contend that respondent No. 7 is not qualified to be promoted on the post of Head Master. The petition is devoid of any merit and the same is therefore, dismissed.

[SMT. SADHANA S. JADHAV, J.]

[RANJIT MORE, J.]