

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. : 4040 of 1999**

Sambhaji Pundalikrao Akkalwad,  
Age 39 years, Occ. Service - Head Master,  
Kai. Digambarrao Bindu Girls High School  
Bhokar, Taluka Bhokar, Dist. Nanded

**... PETITIONER**

**VERSUS**

1. The State of Maharashtra
2. The Education Officer (Secondary),  
Zilla Parishad, Nanded.
3. Kai. Digambarrao Bindu Smarak  
Samiti Bhokar, Taluka Bhokar,  
Dist. Nanded Through its  
President.

**... RESPONDENTS**

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Advocate for the Petitioner : Shri K. V. Patil h/f.  
Shri S. R. Barlinge  
AGP for the Respondent Nos. 1 and 2 : Shri S. P. Tiwari

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**CORAM : RAVINDRA V. GHUGE, J.**

**DATED : 20<sup>th</sup> JUNE, 2019.**

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**ORAL JUDGMENT :**

1. The petitioner had challenged an order of the Education  
Officer (Secondary), Zilla Parishad, Nanded dated 14/07/1999

directing respondent No. 3 Management to comply with Rule 3(4) of the MEPS Rules, 1981 and appoint an eligible lady teacher as the Headmistress of the Kanya Shala by removing the petitioner. The approval granted to the petitioner as the Headmaster was cancelled.

2. The petitioner had a remedy of approaching the School Tribunal under Section 9 of *The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1981*, since he alleged reversion which would fall under Section 9(1)(a) and he also alleged supersession which would fall under Section 9(1)(b). However, as this Court has admitted this petition by order dated 25/07/2001 and interim relief was granted to the petitioner, I do not find it appropriate to go into the issue of the maintainability of this petition.

3. Rule 3(4) of the MEPS Rules reads as under :

*" In the case of a girls' secondary school or Junior College of Education for Women, the seniormost lady teacher fulfilling the conditions laid down in clause (b) of sub-rule (1) and having satisfactory record of service, shall be appointed as the Head of that school irrespective of her seniority vis-a-vis the male teachers."*

4. It is not the case of the petitioner that the Management has several girls schools. The record reveals that one eligible teacher Smt. S. N. Patil, who was working as an Assistant Teacher in the said school from 14/06/1994, was not desirous of shouldering the burden of a Headmistress. She submitted a communication to the Education Officer on 15/06/1996 declaring that she has relinquished her claim to the post of Headmistress and she has no objection if any other person is appointed. It is in these circumstances that the petitioner was continued as the Headmaster ever since this Court stayed the order of the Education Officer.

5. The petitioner has not challenged the legality of Rule 3(4) before any Court. The said Rule will have to be complied with as it is prescribed under the MEPS Act.

6. It is in the above backdrop that the petitioner has continued as the Headmaster of the Late Digambarrao Bindu Girls High School at Bhokar, Taluka Bhokar, District Nanded.

7. The affidavit in reply filed by the Education Officer indicates that a Headmistress will have to be appointed in the Girls School keeping in view Rule 3(4). As Smt. Patil had expressed her inability to discharge her duties as a Headmistress, the petitioner was given the charge of a Headmaster.

8. It cannot be over looked that after a passage of 20 years, the said School must have appointed lady teachers who may be competent and eligible to discharge functions as a Headmistress. The charge handed over to the petitioner to administer the school as a Headmaster cannot be in perpetuity.

9. In view of the above and considering the passage of time, this petition is partly allowed and the order of the Education Officer dated 14/07/1999 stands set aside. I deem it appropriate to issue the following directions to ensure that Rule 3(4) is implemented : -

(a) The Education Officer shall call upon respondent No.3 Management to submit a list of lady teachers, who are eligible to be appointed as a Headmistress. Such information can be

collected from respondent No. 3 on or before 22/07/2019.

(b) The petitioner shall appear before respondent No.2 on 02/08/2019.

(c) The Management representative will also be summoned by respondent No.2 to cause an appearance through a responsible person on the said date and time.

(d) The Education Officer Secondary would confront the Management as well as the petitioner with the list of eligible lady teachers and thereafter would pass an appropriate order ensuring that Rule 3(4) of the Rules is fully implemented.

10. Rule is made partly absolute accordingly.

**(RAVINDRA V. GHUGE, J.)**

shp/-