

**IN THE HIGH COURT OF BOMBAY AT GOA**

WRIT PETITION NO. 351 OF 2019

DAMODAR G. PHADTE.,

... Petitioner

Versus

STATE OF GOA, THR. THE CHIEF  
SECRETARY AND 4 ORS.,

... Respondents

Mr. S.D. Lotlikar, Senior Advocate with Mr. Chaitanya Prakash  
Padgaonkar, Advocate for the Petitioner.

Mr. Dattaprasad Lawande, Advocate General with Mr. Pravin N.  
Faldessai, Additional Government Advocate for the Respondent  
Nos. 1, 2 & 3.

WITH  
STAMP NUMBER (APPLN.) NO. 1531 OF 2019  
IN  
WRIT PETITION NO. 351 OF 2019

Mr. Vijay A. Palekar, Advocate for the applicant.

Coram:- R. D. DHANUKA &  
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 16th April 2019

P.C.:

By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a Writ of Mandamus to consider the case of extension of the petitioner in terms of Rule 80(2), on the basis of the communication dated 14.08.2018 and 26.03.2019, and to grant the necessary NOC to the Society for granting extension to the petitioner of one year service beyond the normal age of superannuation in terms of 60. The petitioner also seeks for an appropriate writ, order or direction, directing the

respondent No.3 to withdraw the communication dated 26.03.2019.

2. The petitioner is due to retire on 30.04.2019. The petitioner applied for extension of service beyond the age of superannuation for one full academic year i.e. 2019-2020 including summer vacation duties in the year 2020, as the headmaster. The application filed by the petitioner is rejected. The petitioner was admittedly awarded the State Level Teacher Award in 2014. The petitioner also produced the medical fitness certificate from authorized Medical Board, Goa Medical College, Bambolim, and requested the Director of Education to issue NOC for extension of services as Headmaster for the full year from 01.05.2019 to 30.04.2010. The Acting Chairman of the Mahanandu G. Naik Memorial High School addressed a letter dated 25.03.2019 to the Director of Education requesting the Director of Education to grant forthwith approval in favour of the petitioner. The Director of Education however, by letter dated 26.03.2019 informed the Manager of the Mahanandu G. Naik Memorial High School that since the School Managing Committee was not approved after 06.07.2018, extension in service could not be granted under Rule 76 of the Goa School Education Rules, 1986.

3. The applicant in Stamp Number (Appln.) No. 1531 of

2019 seeks intervention in this Writ Petition.

4. Mr. Lotlikar, learned Senior Counsel for the petitioner invited our attention to various exhibits annexed to the petition, and submits that the petitioner is eligible for grant of extension of one year service under Rule 88(2) of the Goa, Daman and Diu School Education Rules, 1986. He submits that the petitioner has also annexed the medical certificate to demonstrate that the petitioner has no mental or physical incapacity which would disentitle him to get such extension. He submits that merely because the Managing Committee was not approved after 2016, the petitioner cannot be deprived of his entitlement for extension under Rule 88(2) of the Goa, Daman and Diu School Education Rules, 1986.

5. The learned Counsel for the applicant in the Misc. Civil Application on the other hand submits that since there is no Managing Committee of the school in place, the case of the petitioner for extension of one year period under Rule 88(2), cannot be considered by this Court. He submits that in the meanwhile all members of the Society shall be impleaded as party respondents to this Writ Petition, who would lend their submissions on the issue whether the petitioner has physical and mental capacity to be granted extension of one year under Rule 88(2) or not.

6. The learned Advocate General on the other hand submits that the authority to decide whether the petitioner is eligible to be granted extension under Rule 88(2) of the Goa, Daman and Diu School Education Rules, 1986, is the Director of Education. He submits that since in this case the Managing Committee is not approved beyond 2016, the Director of Education may be directed to verify the credentials of the medical certificate produced by the petitioner alongwith the application, by taking assistance of a Medical Officer of the Government Hospital, if necessary.

7. It is made clear that merely because the Managing Committee is not in place, the application of the petitioner shall not be rejected by the Government. An appropriate decision in this regard shall be taken on or before 27th April, 2019, and a copy of the decision shall be conveyed to the petitioner before 29.04.2019.

8. We do not find any substance in the submission made by the learned Counsel for the intervener that all the members of the Society shall be impleaded as party respondents in this petition, or that since the Managing Committee is not in place, the petitioner's case cannot be considered on that ground. The submissions made by the learned Counsel for the applicant in the

Misc. Civil Application are accordingly rejected.

9. The Writ Petition as well as Misc. Civil Application are accordingly disposed off on the aforesaid terms. Parties to act on the authenticated copy of this order. No order as to costs.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

Dv