

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

LETTERS PATENT APPEAL NO. 285 OF 2009

Shri Madhu Dattatraya Athalye

.. Appellant

Vs.

The President, Gramin Shikshan Prasarak
Mandal, Kondgaon & Ors.

.. Respondents

Mr. N. V. Bandiwadekar a/w. Mr. Ashutosh B. Patil for the Appellant.

Mr. Mihir Joshi i/b Mr. Chetan Mali for Respondent No.5.

Mr. A. I. Patel, Addl. G.P. a/w. Mr. K. S. Thorat, AGP for Respondent-
State.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATE : 12th DECEMBER, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. Vide impugned order dated 12.07.2007 the Writ Petition filed by the Appellant challenging the order dated 24.03.2001 passed by the School Tribunal dismissing the Appeal filed by the Appellant has been dismissed by the learned Single Judge.
3. Since the impugned order is brief, we propose to note all the relevant facts having a bearing on the issue.
4. The Appellant had questioned the continue appointment of Respondent No.5 as Head Mistress of 4th Respondent-School established by the Gramin Shikshan Prasarak Mandal. The school was a Girls School. The Appellant was appointed as an Assistant Teacher in S. M. Kanade Ideal High School. The post of the Head Mistress in Respondent No.4-School became vacant. The Appellant applied and

was selected. The Appellant tendered resignation as the Assistant Teacher in S. M. Kanade Ideal High School. The Appellant was formally appointed as Head Master of Respondent No.4-School vide letter of offer dated 31.05.1995. He was on probation for two years. Required by law for the appointment to be approved by Respondent No.3, the management forwarded papers to Respondent No.3. The request was not approved on the reasoning that being a male the Appellant could not be appointed as Head Master of the Girls School. The management of the school submitted a proposal for appointment of Respondent No.5 as Head Mistress but she had a problem on account of lack of qualifying 5 years of service as an Assistant Teacher. The 3rd Respondent granted approval for Respondent No.5 to be appointed as Head Mistress on 31.05.1996 by according relaxation but in the pay scale of an Assistant Teacher.

5. It was a win-win situation for Respondent No.3 because said Respondent was obliged to grant aid. It had a Head Mistress in place but in the pay scale as an Assistant Teacher. The said fact is otherwise irrelevant.

6. Respondent No.5 took over as the Head Mistress and continued with a request made to Respondent No.3 to relax the eligibility condition of 5 years of having served as an Assistant Teacher without any condition attached for the reason withdrawal of the condition would have entitled Respondent No.5 to salary in the pay scale applicable to Head Mistress.

7. On 26.04.1998 the Appellant submitted a representation to Respondent No.1 requesting him to be considered for being appointed

as Head Master if there was change in the policy.

8. The policy was not changed but an event to place which the Appellant uses as fuel to proper his ship. On 06.06.2000 the Education Department granted approval to the school to become a co-education school on account of reduction in the number of female students. The Appellant made a request on 08.06.2000 that he should be appointed as Head Master on account of school having become a co-educational school. The request was rejected on 01.07.2000.

9. The Appellant filed an Appeal before the School Tribunal on 27.12.2000. The claim of the Appellant was simple. Respondent No.5 lacked the experience prescribed as per rules. Her appointment was invalid. The school has become a co-educational institution. He got the right to be considered for the appointment as Head Master.

10. Suffice it to state when Respondent No.5 was appointed as Head Mistress, she lacked the necessary 5 years experience as Assistant Teacher. But the same was relaxed. She was appointed as Head Mistress when the approval was granted on 31.05.1996. That the school became a co-educational institution in the year 2000, could not destroy the right of Respondent No.5 much less confer a right on the Appellant to be appointed as Head Master of the school.

11. Noting that the Appellant continued to work in Respondent No.4-School as an Assistant Teacher till he superannuated from service, we terminate the proceeding by dismissing the Appeal.

12. No costs.

Arjun M.
Kadam

Digitally signed by
Arjun M. Kadam
Date: 2019.12.12
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[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]