

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 972 of 2016**

Bhoir Sachin Damodar
versus

.....Petitioner

Aryan Education Society and ors.

.....Respondents

Mr. Sariputta (Anand) Pramod Sarnath, advocate for the petitioner.
Mr. R. J. Mane, AGP for respondent Nos.3 and 4.

**CORAM : R. K. DESHPANDE AND
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 13th MARCH, 2020.

P. C. :

1. Rule. Rule made returnable forthwith. Learned AGP waives service of notice on behalf of respondent Nos.3 and 4. Heard finally by consent of learned counsel and learned AGP appearing for the respective parties.

2. The petitioner was working as Peon in respondent No.2- School run by respondent No.1-Society. He claims to have improved the qualification for being promoted to the post of Lab Assistant. Accordingly, a proposal was forwarded by the management to the Education Inspector. However, the proposal was rejected on the ground that there is no provision in the Maharashtra Employees of Private Schools Rules, 1981, for promoting the person from the post of Peon to the post of Lab Assistant.

3. Our attention is invited to the provision contained in Rule 3 of Schedule 'F' dealing with the guidelines for fixation of seniority of non-

teaching staff. In the said Rule, under the caption of '**Lower Grade Staff**' a Peon is entitled for promotion to the post of Lab Assistant by improving of the qualification. In view of this, we are of the view that the case of the petitioner was required to be considered in the light of this Rule. The order impugned is required to be quashed and set-aside with direction to respondent No.3 – Deputy Director of Education (Mumbai Division) to consider the case of the petitioner in the light of the said Rule.

4. In the result, this writ petition is allowed. The order dated 4th December, 2015, passed by the Education Inspector is hereby quashed and set-aside. Respondent No.3– Deputy Director of Education (Mumbai Division) is directed to consider the case of the petitioner for promotion to the post of Lab Assistant in the light of the provision of Rule which we have referred to. This exercise be completed within a period of eight weeks from today. Rule is, accordingly, made absolute. No orders as to costs.

[PRITHVIRAJ K. CHAVAN, J.]

[R. K. DESHPANDE, J.]