

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1707 OF 2004

Miss. Manisha Vilas Ramugade,
Age: Adult, Occupation : service,
Residing at: Plot No.19-20, "Vilas Ratna",
R.S.C 8, Sector No 2, Charkop,
Kandivali (W), Mumbai - 67. ... Petitioner.

V/s.

1. The President/ Chairman/Secretary/
Managing Trustee, AFAC Trust and Society,
C/o.AFAC Junior Collage of Commerce and
Science, St. Anthony Road, Chembur,
Mumbai 400 071.
2. The Head Master/Principal,
AFAC English High School,
St. Anthony Road, Chembur,
Mumbai. 400 071.
3. The Education Inspector,
Greater Bombay (North Zone),
59, New Administration Building,
2nd Floor, Ramkrishana Marg,
Mumbai. 400 071.
4. The State of Maharashtra through
its Secretary, Education Department,
Mantralaya, Mumbai 32.
5. Mr. Madhukar Shamrao Mahale,
Sai Baba Colony, Chawl No 3,
Room No 10, Behind Shriram Talkes,
Vitthaivadi (E), Taluka Kalyan. ... Respondents.

WITH
WRIT PETITION NO. 1708 OF 2004

Miss Mugdha Mukund Gosavi,
Age: Adult, Occupation: Service,
Residing at: 3-B/7, S.B.I. Staff Qtrs,
L.S.Raheja Marg, Malad (E), Mumbai-97. ... Petitioner.

V/s.

1. The President/ Chairman/Secretary/
Managing Trustee, AFAC Trust and Society,
C/o.AFAC Junior Collage of Commerce and
Science, St. Anthony Road, Chembur,
Mumbai 400 071.
2. The Head Master/Principal,
AFAC English High School,
St. Anthony Road, Chembur,
Mumbai. 400 071.
3. The Education Inspector,
Greater Bombay (North Zone),
59, New Administration Building,
2nd Floor, Ramkrishana Marg,
Mumbai. 400 071.
4. The State of Maharashtra through
its Secretary, Education Department,
Mantralaya, Mumbai 32.
5. Mrs.Jaya Barthan,
C-39, Takshsila, Anushakti Nagar,
Chembur, Mumbai- 94. ... Respondents.

WITH
WRIT PETITION NO. 1710 OF 2004

Miss Madhavi Sahadev Tamhankar.
Age: Adult, Occupation: Service
Residing at: 126/5, Shivadarshan Bldg.,
Sane Guruji Road, Jacob Circle, Mumbai 11. ... Petitioner.

V/s.

1. The President/ Chairman/Secretary/
Managing Trustee, AFAC Trust and Society,
C/o.AFAC Junior Collage of Commerce and
Science, St. Anthony Road, Chembur,
Mumbai 400 071.
2. The Head Master/Principal,
AFAC English High School,
St. Anthony Road, Chembur,
Mumbai. 400 071.
3. The Education Inspector,
Greater Bombay (North Zone),
59, New Administration Building,
2nd Floor, Ramkrishana Marg,
Mumbai. 400 071.
4. The State of Maharashtra through
its Secretary, Education Department,
Mantralaya, Mumbai 32.
5. Mr.Shashikant Bajirao Padwal,
Ganeshnagar, Sainath Nagar Road,
Barve Chowk, Ghatkopar (W), Mumbai. ... Respondents.

WITH
WRIT PETITION NO. 1718 OF 2004

Miss Kavita Jagannath Pandhre,
Age: Adult, Occupation: Service,
Residing at: A/2, Sarveswar Complex,
Parsik, Kharegaon, Kalwa. ... Petitioner.

V/s.

1. The President/ Chairman/Secretary/
Managing Trustee, AFAC Trust and Society,
C/o.AFAC Junior Collage of Commerce and

Science, St. Anthony Road, Chembur,
Mumbai 400 071.

2. The Head Master/Principal,
AFAC English High School,
St. Anthony Road, Chembur,
Mumbai. 400 071.
3. The Education Inspector,
Greater Bombay (North Zone),
59, New Administration Building,
2nd Floor, Ramkrishana Marg,
Mumbai. 400 071.
4. The State of Maharashtra through
its Secretary, Education Department,
Mantralaya, Mumbai 32.
5. Mr.Ankush Appasaheb Kadam,
Himalay Co. Op. Hsg. Society,
B-7, Sector 6, Room No.2/2,
Nerul, Navi Mumbai.

... Respondents.

Mr.Jaineel Vashi i/b. M.P.Vashi & Associate for the Petitioners.

Mr.Mihir Joshi for Respondent Nos.1 and 2.

Mrs.P.N.Diwan, AGP for the State in WP No.1707/2004 and
Mr.N.C.Walimbe, AGP for the State in WP Nos.1708, 1710 and
1718/2004.

Mr. Madhukar Mahale, Respondent No.5 in WP No.1707/2004,
Mr.Shashikant Padwal, Respondent No.5 in WP No.1710/2004 and
Mr.Ankush Kadam, Respondent No.5 in WP No.1718/2004 are
present in person

CORAM : **NITIN JAMDAR AND
C. V. BHADANG, JJ.**

DATE : **24 March 2021.**

P.C. :

These petitions are filed challenging the order passed by One Member Grievance Committee established to entertain complaints of Shikshan Sevak dated 3 May 2003.

2. An advertisement was issued by Respondent Nos.1 and 2 publishing it in the newspaper for the appointment of candidates as Shikshan Sevaks. The Petitioners applied and were appointed as Shikshan Sevak from 15 June 2001 to 30 April 2004. The services of Respondent No.5 in all the petitions were brought to an end after the appointment of the Petitioners. The Respondent No.5 filed appeals before the One Member Grievance Committee. By the impugned order, the appeals were allowed and Respondent Nos.1 and 2 were directed to accommodate Respondent No.5- Shikshan Sevaks in service. Being aggrieved by the said order and apprehending termination of their services, the Petitioners filed present petitions.

3. A detailed interim order was passed while admitting the petitions on 23 February 2004. The said order reads thus:

“1. Heard the counsel for the parties.

2. Rule on all these petitions since the order passed by the Grievance Committee requires to be looked into. The persons mentioned as Respondent No.5 in all these petitions re working in the post of Shikshan Sevak by virtue of the order passed by the Grievance Committee on 3rd May 2003. The Petitioners are having their claim on these very posts. The dispute is as to whether these posts were open posts or were in fact reserved category posts.

3. Inasmuch as the persons mentioned as Respondent No.5 are occupying these posts, we do not intend to disturb them during the pendency of the petition. Mr.Dighe has however drawn our attention to the affidavit in reply filed on behalf of Respondent No.5. In para11 of this reply, it is stated that subsequent to the decision of the Grievance Committee, letters of appointment were issued by the Respondent to the Petitioners also since there were such excess posts available but they declined to join on duty. Mr.Thakur, learned counsel for the Petitioners, states that they did not join because they were having a claim and wanted to protect their seniority. Mr.Shimpi, learned counsel for the Management, states on instructions that as of now four posts are vacant and out of them three are meant for Scheduled Castes. He further states that 5th post is likely to become vacant in August 2004. Mr.Thakur, on instructions from the Petitioners, states that without prejudice to their contentions in the petition, the Petitioners are ready and willing to join on these posts. Inasmuch as there are four posts, on the basis of seniority four out of these five Petitioners, except one Ms.Mughda Gosavi, the Petitioner in Writ Petition No.1708/3003 will join forthwith. As far as Ms.Mughda Gosavi is concerned, she will be permitted to join in August 2004. We make it clear that Ms.Mughda Gosavi and Ms.Kavita Pandhare will be occupying the posts meant for open category. They will however continue to occupy the

posts under the orders of the court and their working in the school will not be disturbed, until the hearing and final disposal of the petitions.

4. Needless to state but by way of abundant caution, we make it clear that the Petitioners as well as the persons occupying the posts, whose names are mentioned as Respondent No.5 in all these petitions will be paid their salaries for the period on which they worked and will continue to receive their salaries. The Management will pursue the matter with the Government Authorities and the Authorities will clear such proposal at the earliest.

5. Hearing of the petitions is expedited.

6. Authenticated copy of this order be made available to the parties.”

Thereafter the petitions are listed on board for hearing.

4. Learned counsel for the Respondent- Management submits that as per the interim order, the Petitioners are absorbed in service and an approval to their appointment has also been granted. He submits that even the Respondent No.5- Shikshan Sevaks in the all these Petitions have been taken in service as per the order of the Grievance Committee. He states that and both, the Petitioners and the Respondent No.5 (in all matters), are in service of Respondent Nos.1 and 2. The main prayer in the petition is regarding restoration of the services of the Petitioners. This has already been granted by way of interim order which has been accepted by Respondent Nos.1 and 2.

5. Therefore, nothing survives in these petitions for adjudication. The learned counsel for the Petitioners sought to contend that an issue of seniority would arise and there are certain arrears/ dues to be paid to the Petitioners. The learned counsel for Respondent Nos.1 and 2 states that the issue of seniority may arise, however, according to his instructions, no dues are payable. This aspect, however, does not arise for consideration in these petitions.

6. It is open to the Petitioners to make an application to the Respondent- Management in respect of fixation of seniority and the Respondent- Management thereupon will take necessary steps as required in law. If, according to the Petitioners, certain dues are payable to the Petitioners, it is open to the Petitioners to make representation to the Respondent- Management who will take appropriate decision in accordance with law.

7. With the above observations, all the writ petitions are disposed of. No order as to costs.

8. In view of disposal of writ petitions pending civil applications, if any, do not survive and stand disposed of accordingly.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)