

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1752 OF 2021
IN
WRIT PETITION NO.2188 OF 2021

Mrs. Asha R. Fegde .. Applicant.

In the matter between
Mrs. Asha R. Fegde .. Petitioner
v/s.
Zilla Parishad Palghar
through Education Officer & Others .. Respondents.

Mr. Abhijeet Desai with Ms. Surbhi Agrawal i/b. Desai Legal, for the Applicant.

Mr. P. P. Kankal, G.P. with Ms. Vaishali Nimbalkar, AGP for Respondent-State.

Mr. N. V. Bandiwadekar, for Respondent Nos. 2 & 3.

CORAM: G.S. KULKARNI,J.
DATED : 28th SEPTEMBER, 2021.

PC:-

Heard Mr. Desai, learned Counsel for the Applicant on this Interim Application.

2 By an order dated 18th February, 2021, Writ Petition was admitted.

3 The order impugned in the Writ Petition is an order dated 2nd July, 2020 passed by the Education Officer, Zilla Parishad, Palghar by which the Education Officer decided a dispute on seniority between the Petitioner and Respondent No.3. Respondent No.3 was held to be senior to the Petitioner. Thus, the subject matter of the Writ Petition is the inter-se seniority between these parties.

4 The grievance of the Petitioner in this application is with regard to the promotional post of Head Master. Respondent No.3 was granted promotion to the post of Head Master, on 1st August, 2020. It was a situation which was prevailing when this Court considered the Writ Petition for admission on 18th February, 2021, when Respondent No.3 was already working on such promotional post.

5 Be that as it may, if the Petitioner in any manner feels aggrieved by the promotion of Respondent No.3 as a Head Master, the Petitioner has a remedy under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Act, to assail such promotion. Thus, the substantive prayers as made in the Interim Application that the Court directs that the order of stay dated 18th February, 2021 be implemented to the effect that the Respondent No.3 be directed to vacate the post of Head Master/ Principal and the said post be conferred on the Applicant, cannot be granted in the present proceedings as the scope of the Writ Petition is not to examine the validity of any appointment made to the higher post of Head Master.

6 In the above circumstances, Interim Application is dismissed, however, with a liberty to the Petitioner to adopt appropriate proceedings as permissible in law, to agitate her grievances on the issue of promotion to the post of Head Master.

7 All contentions of the parties are expressly kept open.

(G.S. KULKARNI,J.)