

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7585 OF 2019

Sunil s/o Kishorilal Rathi
aged about : 54 years
Occupation : Service
R/o. 34, 'Kalash' Mungsaji Nagar
Malegaon Tq. and Dist. Washim

}

.. Petitioner

Versus

[1] Shikshan Prasarak Mandal, Malegaon
Dist.Washim through its President/
Secretary, R/o. Malegaon C/o. Akola
Fata, Malegaon, Tq. & Dist. Washim –
444503

[2] The Headmaster/Principal
Nathuram Narayandas Mundada
Vidyalaya, Malegaon, Tq. & Dist. Washim

[3] Shriram Dattatraya Rode
aged about : Adult, Occ. Service
R/o. c/o. N. N. Mundada Vidyalaya,
Malegaon, Tq. & Dist. Washim

[4] Dr.Radheshyam Champalalji Panpalia
aged about Adult, Headmaster, Nathuram
Narayandas Mundada Vidyalaya,
Malegaon Tq. & Dist. Washim

[5] The Education Officer [Secondary]
Zilla Parishad, Washim
Tq. & Dist. Washim

}

.. Respondents

With
WRIT PETITION NO. 2912 OF 2020

Radheshyam S/o Champalalji Panpalia
aged about 55 years, R/o. "Dwarika"
Near Santoshi Mata Mandir, Selu Phata,
Malegaon, District – Washim

}

.. Petitioner

Versus

1. Education Officer(Secondary)
Zilla Parishad, Washim
2. Shikshan Prasarak Mandal, Malegaon
through its President. C/o. Nathuram
Narayandas Mundada Vidyalaya,
Malegaon, District – Washim
3. Sunil S/o Kishorilala Rathi
Aged about : 55 years, R/o. 'Kalash',
Mungsaji Nagar, Malegaon, Taluka and
District – Washim

}

.. Respondents

Writ Petition No. 7585 of 2019 :

Mr. V. A. Kothale, Advocate for petitioner.
Mr. H. A. Deshpande, Advocate for Respondent No.1
Ms. Mayuri Deshmukh, AGP for respondent No. 5.

Writ Petition No. 2912 of 2020 :

Mr. H. A. Deshpande, Advocate for petitioner.
Mr. V. A. Kothale, Advocate for respondent No.3.
Ms. Mayuri Deshmukh, AGP for respondent No.1.

CORAM : MANISH PITALE, J.

RESERVED ON : 24/06/2021

PRONOUNCED ON : 15/07/2021

COMMON JUDGMENT

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

(2) Rule made returnable forthwith. These two writ petitions are heard finally with the consent of learned counsel for the rival parties.

(3) These two writ petitions have been taken up for consideration together, because the central question involved in these petitions pertains to the dispute regarding *interse* seniority raised by the rival parties.

(4) Sunil s/o Kishorilal Rathi is petitioner in Writ Petition No.7585 of 2019, wherein Radheshyam s/o Champalalji Panpalia is respondent No.4. In Writ Petition No.2912 of 2020, Radheshyam Panpalia is the petitioner, while Sunil Rathi is respondent No.3. (for the sake of convenience the rival parties are being referred to by their surnames i.e. 'Rathi' and 'Panpalia').

(5) It is the case of Rathi in Writ Petition No.7585 of 2019 that seniority list prepared by the respondent Nos.1 and 2 i.e. the management and the secondary school needs to abide by the provisions of the Maharashtra Education of Private Schools (Conditions of Service) Rules, 1981, (hereinafter referred to as 'the MEPS Rules'), in the light of latest pronouncements in that regard of this Court and the Hon'ble Supreme Court. As a consequence, the petitioner i.e. Rathi in the said writ petition has prayed that decision of the Education Officer (Secondary) holding Rathi junior to Panpalia and another employee deserves to be quashed and set aside. It is stated in the writ petition that although an appeal before the School Tribunal under the provisions of the MEPS Act and Rules could have been filed, in view of an earlier order dated 16/10/2019 passed by the School Tribunal holding against Rathi on the question of *interse* seniority, the writ petition was directly filed before this Court.

(6) Panpalia filed Writ Petition No.2912 of 2020, challenging order dated 04/08/2020, passed by the respondent Education Officer. By the said order, the Education Officer directed that earlier order dated 14/11/2019, granting approval to the

appointment of Panpalia as Head Master ahead of Rathi, stood cancelled and the respondent management was directed to submit a proposal as per Rules and seniority for appointment of Rathi as Head Master by promotion.

(7) The question of *interse* seniority is governed by the MEPS Rules, particularly Rule 12 read with Schedule 'F'. Based on interpretation of the said Rule and Schedule, the respondent State had issued various Government Resolutions and Circulars laying down the manner in which *interse* seniority of teaching staff was to be ascertained. There were number of litigations initiated by aggrieved parties before the School Tribunal, which reached this Court as also the Hon'ble Supreme Court, as regards the manner in which, seniority of teaching staff was to be determined. The controversy was put to rest by judgment of Division Bench of this Court dated 09/04/2019 passed in Writ Petition No.14242 of 2018 (*Mrs. Gaur Pratibha (Ms.Thakur Pratima Jagatsingh) and ors. vs. State of Maharashtra and connected writ petitions.*) A Special Leave Petition filed against the said Division Bench Judgment of this Court was dismissed. Divergent views taken in other writ petitions by learned Single Judges of this

Court stood set aside. Subsequent judgment of the Hon'ble Supreme dated 09/12/2020, passed in **Civil Appeal No.3966 of 2020 (*Madhavi vs. Chagan and others*)**, confirmed the aforesaid view of the Division Bench of this Court. Accordingly, the respondent State issued Circular dated 03/05/2019, in consonance with the aforesaid view of the Division Bench of this Court, clarifying the manner in which seniority of teaching staff was to be determined. The respondent State has filed its reply and categorically stated that the order dated 04/08/2020, is based on the law laid down by the Division Bench of this Court and the consequent Circular dated 03/05/2019 and that therefore, no interference is warranted. The respondent State has supported the contentions raised on behalf of Rathi in both the writ petitions.

(8) The learned counsel appearing for the contesting parties have not disputed the position of law clarified by the Division Bench of this Court and confirmed by the Hon'ble Supreme Court, as regards the interpretation of the relevant Rule for determination of seniority of the teaching staff. In fact, in Writ Petition No.7585 of 2019, this Court granted Rule on 20/01/2020, recording that arguable issues arose in the matter. But, since the central issue involved was

pending consideration before the Hon'ble Supreme Court, Rule was granted and liberty was given to the parties to mention the petition for disposal, upon the said issue being decided by the Hon'ble Supreme Court. In Writ Petition No.2912 of 2020, while issuing notice and pending consideration of the writ petition, interim stay was granted to impugned order dated 04/08/2020. Both the writ petitions were taken up for consideration together.

(9) Mr. H.A.Deshpande appearing for Panpalia in both the writ petitions submitted that although there cannot be any dispute about the law laid down by this Court and the Hon'ble Supreme Court as regards interpretation of the MEPS Rules for determining *interse* seniority of the teaching staff relevant for deciding the contesting claims of Panpalia and Rathi, in the present case, the facts are peculiar and if the Rule is applied on a proper appreciation of the facts, the claim of Rathi cannot be sustained. The learned counsel for Panpalia submitted that Rathi was appointed on 17/09/1991 and he had already acquired the qualification of B.Ed. in the year 1990, but it was emphasized that Rathi was appointed to teach classes V to VII, thereby indicating that he was appointed as a primary teacher in the primary

section of the respondent school i.e. Nathuram Narayandas Mundada Vidyalaya, Malegaon. It was submitted that Rathi was specifically appointed for teaching the aforesaid classes and therefore, as per Schedule 'F' to MEPS Rules he could not be categorized as belonging to Category 'C'. On the other hand, although Panpalia was appointed later on 15/01/1992 and he acquired B.Ed. qualification in 1991, which was after Rathi had acquired such qualification, Panpalia was appointed for teaching classes VIII to X, being the secondary section of the aforesaid school. According to the learned counsel for Panpalia, the appointment of Rathi being in primary section, he could not be categorized in Category 'C' to which he eventually rose by a specific order dated 19/11/2009, passed by the Education Officer. As opposed to this Panplia was in Category 'C', right from his initial appointment and therefore, he was correctly appointed as Head Master ahead of Rathi and the approval order dated 14/11/2019 passed by the Education Officer in his favour ought not to have been cancelled or withdrawn.

(10) According to the learned counsel for Panpalia, a perusal of the MEPS Act, particularly Sections 2(18), 2(19) and 2(24) would show that a primary school can be part of a recognized school

imparting primary education. To support the said contention the learned counsel relied upon judgment of Full Bench of this Court in the case of **Jayashree Sunil Chavan vs. State of Maharashtra and others**¹ and judgment of Division Bench of this Court in the case of **Kondiba Dattarao Mirashe vs. State of Maharashtra and others**². The learned counsel also relied upon judgment of Full Bench of this Court in the case of **Vaijanath s/o Tatyarao Shinde vs. Secretary, Marathwada Shikshan Prasarak Mandal and others**³ and judgment of the Hon'ble Supreme Court in the case of **Viman Vaman Awale vs. Gangadhar Makhriya Charitable Trust and others**⁴. The emphasis of the learned counsel was on the submission that while Rathi was appointed in that part of the respondent school, which was imparting primary education and that Panpalia was appointed in that part of the school which was imparting secondary education and that therefore, Panpalia had entered Category 'C' in Schedule 'F' much prior to Rathi, even though Rathi had acquired B.Ed. qualification before Panpalia. On this basis it was submitted that Writ Petition No.7585 of 2019 deserved to be dismissed and that Writ Petition No.2912 of 2020, deserved to be allowed.

1 2000 (3) Mh.L.J. 605

2 2003 (2) Mh.L.J. 432

3 2006 (6) Mh.L.J. 682

4 (2014) 13 SCC 219

(11) On the other hand, Mr. V. A. Kothale, learned counsel appearing for Rathi submitted that a perusal of Schedule 'F' to Rule 12 of the MEPS Rules would show that teachers have been classified into different categories. It was emphasized that primary school teachers are found in a completely different section which is shown as Part – 1 to Schedule 'F'. Part – 2 of Schedule – 'F' pertains to guidelines for fixation seniority of teachers in secondary schools. In this part various categories have been specified. Attention of this Court was invited to Category 'C', wherein teachers with qualification of B.Ed. have been placed. According to the learned counsel appearing for Rathi, the contentions raised on behalf of Panpalia were misplaced, because it was being erroneously claimed that Rathi was appointed as a primary teacher. It was submitted that neither the appointment order, nor the approval order whereby Rathi joined in the post of teacher, stated that he had been appointed as a primary teacher. Admittedly, Rathi held the qualification of B.Ed. which he had acquired in 1990 itself, at the time of his initial appointment on 17/09/1991. On this basis it was submitted that holding the qualification of B.Sc. B.Ed., Rathi was all along correctly classified as Category 'C' teacher. It was further submitted that Panpalia admittedly acquired qualification

of B.Ed. in the year 1991, which was after Rathi had already acquired the qualification and further that Panpalia was appointed on 15/01/1992.

(12) By relying upon law laid down by aforesaid judgment of the Division Bench of this Court in the case of **Gaur Pratibha** (supra) and confirmed by the Hon'ble Supreme Court in the case of **Madhavi** (supra), learned counsel for Rathi submitted that in Category 'C', the *interse* seniority has to be determined on the basis when the teacher enters the said Category with emphasis on the required qualification of B.Ed. In the present case, since Rathi had acquired B.Ed. in 1990 and he was appointed on 17/09/1991, he entered Category 'C' right from the date on his appointment. Panpalia was appointed on 15/01/1992 and since he had B.Ed. qualification, he also entered Category 'C' from the date of his appointment. But, since admittedly Panpalia had acquired B.Ed. in 1991, after Rathi who had already acquired it in 1990, according to the learned counsel for Rathi, the order dated 04/08/2020 passed by the Education Officer was justified and for the same reason Writ Petition No.7585 of 2019 filed by Rathi deserved to be allowed. The learned counsel appearing for

Rathi, relied upon the same judgments on which learned counsel for Panplia placed reliance pertaining to the position of law. As noted above, there was no dispute raised about the manner of determination of seniority of teaching staff, but the dispute centered on the claim of Panpalia that Rathi entered Category 'C' later, because he was appointed as a primary teacher.

(13) Ms. Mayuri Deshmukh, learned AGP appeared on behalf of respondent State and she submitted that reply affidavit in Writ Petition No. 2912 of 2020, explained the stand of the State. It was submitted that Rathi was classified in Category 'C' throughout and that in the light of the law laid down by the Division Bench of this Court and confirmed by the Hon'ble Supreme Court, pursuant to which Circular dated 03/05/2019, was issued by the respondent State, no interference was warranted in the order dated 04/08/2020, passed by the Education Officer. The learned AGP also referred to the relevant provisions of the secondary school to submit that schools providing instruction from Classes V to X were secondary schools.

(14) Having heard the learned counsel for the rival

parties, it becomes clear that they have proceeded on the basis of law laid down by Division Bench of this Court in the case of **Gaur Pratibha** (supra), as confirmed by the Hon'ble Supreme Court in the case of **Madhavi** (supra). Therefore, it would be appropriate to refer to the relevant portions of the said judgment. In the case of **Gaur Pratibha** (supra), the Division Bench of this Court framed questions and answered them. The relevant portion reads as follows :-

“The Questions :

2(a). Here, the question is, once persons from different sources enter a common category, how should their seniority be reckoned?

2(b). Is it from the date of their entering and continuously officiating in the service or from the date of their acquiring qualification to reach that common category?

2(c). Is there any universal principle for this proposition or does it depend on the rules of service?

3. to 114

Conclusion :

115. This Court's series of judicial pronouncements as cited above, with the final cap by the Supreme Court's *Viman Vaman Awale and Bhawana*, unmistakably lays down the law : Among Primary Teachers, the seniority is counted from the date of the teacher's joining service. On the other hand, among the Secondary Teachers, the seniority is counted based on when the teachers had been

placed in a particular category—for their seniority stands graded and categorized by the date of their very joining. This categorization is qualification-dependent. Placed in the descending order of category, the teachers rise in ranks of seniority with their additionally acquired qualifications under Guideline (2) of Schedule F, appended to Rule 12 of the MEPS Rules.

116. *Once a few teachers reach a common category, equal they may have all been in rank, but their seniority depends on who entered the specific category first. And this entry depends on the date of the teacher's acquiring qualification, not on the date of his or her joining service.*

117. *Thus, a teacher who is a member of a lower category can in no manner rank senior to the teacher who is already a member of a higher category. Such a claim could be based neither on his continuous service nor on his acquiring the qualification and reaching the higher category. To be specific a teacher, for example, in Category D, E, or F, on later migration to Category C, cannot steal a march over a teacher already ensconced in that higher Category. That teacher's seniority by length of service and by his or her later acquiring the requisite, additional, or even superior qualifications does not defeat the right of teachers already found placed in Category C. What applies to Primary Teachers cannot apply to Secondary Teachers, for the Rules do keep these two streams of teachers unmixed.*

Answers :

118. *Once, secondary teachers enter a common category from different sources, how should their seniority be reckoned: is it from the date of their entering and continuously officiating or from the date of their acquiring qualification to reach that common category?*

119. The seniority must be reckoned from the date they entered the desired category; that is, from the date they acquired the necessary qualification, but not from the date of their entry into service.

120. Is there any universal principle for this proposition or does it depend on the rules of service?

121. No. the seniority in any cadre depends on the statutory position—principal or subordinate—that governs the employees of an establishment. Here, it is governed by the Guidelines in Schedule F, under Rule 12, of MEPS Rules.

122. We therefore allow all the writ petitions, holding :

(a) The two Government Circulars of 24th January 2017 and 14th November 2017 may stand unaffected vis-à-vis the Primary Teachers.

(b) Those two Government Circulars, however, cannot be sustained vis-à-vis the Secondary Teachers, to the extent those GRs mandate that the teachers' seniority be reckoned from the date of their first appointment and continuous service.

(c) The Government and the authorities concerned, including the School Managements, will recalibrate the relative seniority of the Secondary Teachers based on the Category they belong to and based on when they have entered that Category.

So we declare. No order on costs.”

(15) In the case of **Madhavi** (supra), the Hon'ble Supreme Court has held as under :-

“23. *The Scheme of the Act and the Rules makes it clear that primary and secondary schools have been treated differently in the same set of Rules. Rule 2(e) has entrusted the duties of Education Officer or Education Inspector in relation to secondary or higher secondary school, whereas, the Education Officer in respect of a primary school is Education Officer or the Administrative Officer of the Municipal Corporation or a Municipal School Board. Similarly, Rule 3 prescribes different rules for appointment of a head of a primary school and the head of the Secondary School. Part I of Schedule ‘B’ prescribes qualifications for the appointment of teachers in Primary School, whereas Part II prescribes qualification for appointment of teachers in Secondary School and Junior colleges of Education. Chagan had joined Secondary School as an untrained undergraduate teacher. He therefore falls in Clause 2 of Part II of Schedule ‘B’. Similarly, Schedule ‘F’ deals with rule of seniority having different categories. Category ‘E’ is the lower-most level of the ladder which can be upgraded with improvements in the qualifications of the teachers.*

24. *We find that the High Court failed to appreciate the distinction between Clause 1 and Clause 2 of Schedule ‘F’ of the Rules. Clause 1 was the subject matter of interpretation by this Court in **Viman Vaman Awale** and Clause 2 was the subject matter of interpretation in **Bhawna. Vaijanath** also dealt with promotion to the post of Head Master of a School falling in Clause 1 of Schedule ‘F’. Since the School in question is a secondary school, therefore, Clause 2 of Schedule ‘F’ will determine the seniority. Chagan was not a trained teacher to be part of Category ‘C’ at the time of his appointment on 1.8.1985 and he was rightly placed in Category ‘E’ on account of his qualification but he upgraded his qualifications, and hence was placed in Category ‘D’ and ‘C’ on acquiring graduation and B.Ed. degrees respectively.”*

(16) The learned counsel appearing for the rival parties have both proceeded on the above quoted position of law laid down in the context of Rule 12 read with Schedule 'F' of the MEPS Rules. The only factual peculiarity being claimed on behalf of Panpalia is that Rathi was appointed in the primary school or that section of the respondent school which was imparting primary education and that therefore, even if Rathi had B.Ed. qualification prior to Panpalia, he could not be classified as a teacher in Category 'C' of Schedule 'F' to Rule 12 of the MEPS Rules. This contention is based on the assertion that Rathi was teaching classes V to VII in the respondent school, due to which he necessarily stood classified as a primary school teacher, to whom part – 1 of Schedule 'F' to Rule 12 of the MEPS Rules applied. It was claimed that Rathi entered Category 'C' much later i.e. in the year 2009, when he was upgraded to that Category. As opposed to this, it was contended on behalf of Rathi that the aforesaid contention was wholly misplaced, because Rathi was appointed right from the beginning in Category 'C' and the *interse* seniority between Rathi and Panpalia was required to be determined by treating them both as teachers in Category 'C', on the basis of the above quoted law laid down by the Division Bench of this Court and confirmed by the

Hon'ble Supreme Court.

(17) In the backdrop of these contentions, it becomes necessary to examine as to whether it could be said that Rathi was a primary teacher or teacher appointed in primary school. The learned counsel appearing for Panpalia has placed much emphasis on definition of “primary education” and “primary school” given in Sections 2(18) and 2(19) of the MEPS Act. The said definitions simply state that primary education means education imparted in such subjects and upto such standards as may be determined by the Government from time to time and that primary school is a school or part of a recognized school in which primary education is imparted. These definitions do find mention in the Full Bench judgement of this Court in the case of **Jayashree Chavan** (supra), which concerned the question as to whether the qualification B.Ed. was a requisite qualification for teaching students in primary school. The Full Bench held that D.Ed. was the requisite qualification for teaching students in primary school and that B.Ed. qualification could not be treated as equivalent thereto.

(18) Much emphasis was placed on judgment of Division Bench of this Court in the case of **Kondiba Mirashe** (supra), wherein reference was made to classes V to VII and it was observed that classes I to VII would normally be treated as primary school or that classes V to VII would have to be treated as primary section (level – II). But, it is significant to note that the Division Bench in the said case specifically noted that the schools with which the case was concerned were run by the Municipal Council governed by the provisions of the Bombay Primary Education Act and Rules and that MEPS Act and Rules did not apply. It is also significant to note that Division Bench of this Court in the case of **Gaur Pratibha** (supra), specifically concerning the question of *interse* seniority of teachers under the MEPS Act and Rules, recorded in paragraph 30 that the Government treats Standards I to V in a school as “primary education”.

(19) It is significant that the respondent State in its reply in Writ Petition No.2912 of 2020, stated as follows: -

“7. It is further pointed out that, the education qualification, dated of appointment of the petitioner and Respondent No.3 is as under :-

<i>Sr. No.</i>	<i>Name of official</i>	<i>Designation</i>	<i>Qualification</i>	<i>Date of Appointment</i>	<i>Category</i>	<i>Remarks</i>
1	Shri. R. C. Panpalia	Secondary School Teacher	M.Sc. B.Ed.	15.01.1992 B.Ed. on 1992	C	Petitioner
2	Sunil K. Rathi	Secondary School Teacher	B.Sc. B.Ed.	17.09.1991 B.Ed. on 1990	C	Res.No.3

From the above table it clear that, the petitioner is appointed on the basis of M.Sc., B.Ed. qualification w.e.f. 15.01.1992 as junior college teacher, whereas the Respondent No.3 is appointed on the Basis of B.Sc., B.Ed qualification as Secondary School Teacher w.e.f. 17.09.1991 and both are placed in Category “C” in open category. So admittedly by applying provisions of Schedule -B and also owing to Circular dated 03.05.2019 founded on the basis of judgment passed in Writ Petition No.14242/2018 maintained by Hon’ble Apex Court as per judgment dated 20.05.2020. It is clear that, the Respondent No.3 is senior to petitioner in Category “C” so approval to the promotion of petitioner does not stand to the test of law and fact both, hence same is rightly revoked by answering respondent.

8. It is made clear that, Writ Petition No.7585/2019 filed by the Respondent No.3 before this Hon’ble Court is pending wherein order is passed on 20.01.2020, in view of the pendency of issue of seniority of secondary school teachers before the Hon’ble Supreme Court of India. On 20.01.2020 which is subsequently settled as per judgment dated 20.05.2020 it is clear, that impugned decision given by Respondent No.1 on 04.08.2020 is in consonance with the law settled by the Hon’ble Apex Court and in humble submission it is made clear that the answering respondent has shown full regard to the legal position and N.N.Mundada High School run by Respondent No.2 Society is secondary school and not primary school right from the beginning imparting education from Vth to XIIth defined under Chapter One of Secondary school code reproduced as under :

“Clause 4.A High School is secondary School which provides as Course in general education leading to the secondary school certificate examination (S.S.C.Examination) or an Equivalent Examination recognized by Government at the end of Std. X such a school may provide instruction from Std. V or above but not beyond Std. X” such a school may provide instruction from Std. V or above but not beyond Std X.” So grounds raised by petitioner are without legal foundation consequently petition is Liable to be dismissed.”

(20) It is also significant that Section 2(18) of the MEPS Act specifically lays down that ‘primary education’ means education imparted upto such standards as may be determined by the State Government from time to time. It is also a recognized position that secondary school code is a compilation of executive instructions. In fact, this is so held by Division Bench of this Court in the case of **Kondiba** (supra) on which the learned counsel appearing for Panpalia has placed reliance. Thus, as per the instructions of the State itself classes V to X are recognized as secondary school. Since the respondent State has taken a categorical stand, as is evident from the above quoted portion of the reply affidavit of the respondent State, to the effect that the respondent school is a secondary school in which Rathi was teaching and he was classified in Category ‘C’ of Schedule ‘F’ to Rule 12 of the MEPS Rules, there is no reason for this Court to accept the contention raised on behalf of Panpalia.

(21) Once it becomes clear that both Rathi and Panpalia are in Category 'C', applying the Rules and the position of law laid down by this Court and confirmed by the Hon'ble Supreme Court, Rathi has to be treated as senior to Panpalia. The Government Circular dated 03/05/2019, has been issued in line with the law laid down by Division Bench of this Court in the case of **Gaur Pratibha** (supra), specifically superseding earlier Government Resolutions dated 24/01/2017 and 14/11/2017. In the order dated 04/08/2020, the Education Officer has specifically referred to the said Circular dated 03/05/2019, while directing that the earlier order dated 14/11/2019, granting approval to appointment of Panpalia stands cancelled and the respondent management has been directed to forward a proposal for promoting Rathi to the post of Head Master. In the light of the aforesaid discussion, this Court is of the opinion that no error can be attributed to the said order dated 04/08/2020.

(22) In this backdrop, emphasis placed on Rule 9(4)(a) of the MEPS Rules, pertaining to age limit for appointment to primary school, pales into significance. Applying the position of law in the context of Rule 12 read with Schedule 'F' of the MEPS Rules for

determination of *interse* seniority between Rathi and Panpalia, it becomes clear that Rathi has to be held as senior to Panpalia in Category 'C'. Therefore, the contentions raised on behalf of Panpalia deserve to be rejected.

(23) In view of the above, Writ Petition No. 2912 of 2020 is dismissed and the interim order stands vacated. For the same reasons, Writ Petition No.7585 of 2019, is allowed in terms of prayer clauses (i), (ii) and (iii).

(24) Rule is discharged in Writ Petition No.2912 of 2020 and it is made absolute in Writ Petition No.7585 of 2019. No order as to costs.

[MANISH PITALE J.]