

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2823 OF 2021

Manikrao Ishwar Salunke

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. Vishwasrao Deokar for the Petitioner

Mr. V.M. Mali, AGP for the Respondent – State

Mr. Gaurav Bandiwadekar for the Respondent No.4

***CORAM : NITIN JAMDAR &
AMIT BORKAR, JJ.***

***DATE : 03 FEBRUARY 2022
(Through Video Conferencing)***

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Respondent No.2 dated 23 June 2021 wherein the Petitioner is informed that since the Petitioner had given resignation of the post of Headmaster on 6 February 2015, the Petitioner cannot make a grievance regarding the Petitioner's non appointment as a Headmaster thereafter.

3. Two contentions are raised by the learned Counsel for the Petitioner. First, that when the Petitioner was appointed as the Headmaster earlier he was not appointed regularly but out of turn as he was not the senior-most teacher then. Second, the resignation given on 6 February 2015 was a forcible resignation.

4. As regards the argument that the Petitioner was not senior-most when he was earlier appointed as a Headmaster, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 permit a person who is junior to be appointed as a head of the school as per the procedure laid down under the Rules of 1981. In fact, the Resolution which the Petitioner now relies upon for the subsequent claim dated 27 May 2021 also indicates that this methodology is followed. Therefore, the earlier promotion of the Petitioner cannot be considered as an ad-hoc promotion but was a regular promotion. This would mean that the Petitioner was given the post of Headmaster from which he resigned on the ground that because of the workload it is not possible for him to take the responsibility.

5. As regards the contention that the resignation given on 6 February 2015 was the forcible resignation, the Petitioner has not made any grievance regarding the same. If the Petitioner was forced to resign then the Petitioner would have immediately made a grievance, in the same manner as he has done in this Petition.

6. That being the position, we do not find any fault with the stand taken by the Respondent – Education Officer, further elaborated in the affidavit in reply that having resigned as a Head of the school without making any grievance, the Petitioner cannot take objection in respect of appointment of other persons in the seniority list as a Head.

7. In these circumstances, the Writ Petition cannot be entertained and is rejected.

AMIT BORKAR, J.

NITIN JAMDAR, J.