

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

WRIT PETITION NO.586 OF 2019

{Sudhakar Vishnupant Bobade ..Vrs.. Vanita Samaj Society and Ors.}

WITH

WRIT PETITION NO.4677 OF 2017

{Mrs. Sheela U. Kale ..Vrs.. Education Officer (Primary) and Ors.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Writ Petition No.586 of 2019

Shri C. A. Babrekar, Advocate for the Petitioner.

Ms R. Bajaj, Advocate for the Respondent No.1.

Shri A. De, Advocate for the Respondent No.2.

Shri J. B. Kasat, Advocate for the Respondent No.3.

Shri N. R. Patil, AGP for the Respondent No.4.

Writ Petition No.4677 of 2017

Shri A. De, Advocate for the Petitioner.

Shri J. B. Kasat, Advocate for the Respondent No.1.

Ms R. Bajaj, Advocate for the Respondent No.2.

Shri C. A. Babrekar, Advocate for the Respondent No.3.

CORAM : SANDEEP K. SHINDE AND
MRS. VRUSHALI V. JOSHI, J.J.

DATE : 23rd NOVEMBER, 2022.

1. Vanita Samaj Society – Respondent No.1, runs two Primary Schools : one Baloddyan Prathmik Girls School, and another, Nutan Primary School at Amravati : both aided. Mr Boabde – Petitioner in Writ Petition No.586 of 2019, is senior most trained teacher : whereas, Mrs Sheela Kale – Petitioner in Writ Petition No.4677 of 2017, is second senior most trained teacher. It is admitted fact. Mr Bobade, was promoted and appointed to the post of Headmaster on 01.04.2015 at Nutan Primary School. Whereas, Mrs Kale, was promoted and appointed as Headmistress at Baloddyan Prathmik Girls School, vide order dated 30.04.2015.

Whereafter, the Management, sought approval of Education Officer to the appointment of Mr Bobade, as Headmaster at Nutan Primary School, but for want of teaching/non-teaching staff justification report for the year 2014-15, the Education Officer expressed his inability to grant approvals to the appointments of Mr Bobade and Mrs Kale. In consequence, Mr Bobade, continued to hold the post of Headmaster at Nutan Primary School and Mrs Kale, continued as Headmistress at Baloddyan Prathmik Girls School. Later, the Management received the staff justification report on 19.01.2016, in terms of which, post of Headmaster was admissible only to Baloddyan Prathmik Girls School. Meaning thereby, post of Headmaster at Nutan Primary School, was not admissible.

2. In that view of the matter, Mr Bobade, senior most trained teacher, requested the Management, on 26.02.2016 and 22.06.2016, to appoint him as Headmaster at Baloddyan Prathmik Girls School. It is Mr Bobade's case, that the Management ignored his request, therefore, on 04.07.2016, he made a representation to Education Officer (Primary) with request to appoint him as Headmaster at Baloddyan Prathmik Girls School with effect from 1st April, 2015 and be paid all consequential benefits. The Education Officer took cognizance of representation. Whereafter, the Education Officer after hearing Mr Bobade and Management, directed the Management to appoint Mr Bobade, as Headmaster at Baloddyan Prathmik Girls School, being senior most trained teacher. In response thereto, the

Management, vide order dated 20.06.2017, promoted and appointed Mr Bobade, to the post of Headmaster at Baloddyan Prathmik Girls School, but with effect from 01.07.2017, and simultaneously, by another order dated 20.06.2017, appointed Mrs Kale, as In-charge Headmistress at Nutan Primary School at Amravati.

3. Feeling aggrieved by the order/s dated 20.06.2017, Mr Bobade and Mrs Kale, both, preferred this two writ petitions.

4. Heard the learned Counsel appearing for the parties.

5. It is not in dispute, that Mr Bobade, is the senior most trained teacher in the schools run by Vanita Samaj Society and qualified to be appointed as Head Master in terms of Rule 3(1)(a) of the MEPS Rules. Indisputably, though, Mr Bobade, was promoted and appointed as Headmaster on 01.04.2015 at Nutan Primary School, but since staff justification report did not admit the post of Headmaster to Nutan Primary School, but only to Baloddyan Prathmik Girls School, Mr Bobade, continued to work as In-charge Headmaster. On the other hand, Mrs Kale, being junior to Mr Bobade, in seniority, she continued to work as Headmistress at Baloddyan Prathmik Girls School. In the fact situation, the Management ought to have appointed Mr Bobade, being senior most teacher as Headmaster at Baloddyan Prathmik Girls School, soon after receipt of staff justification report. However, the Management seemed to be disinterested in appointing Mr Bobade, as Headmaster, at Baloddyan Prathmik

Girls School. In any case, in consideration of the facts above, the order/directions issued by the Education Officer to appoint Mr Bobade, as Headmaster, being senior most trained teacher, it cannot be faulted with and therefore, the Management in all fairness, ought to have promoted and appointed Mr Bobade, as Headmaster at Baloddyan Prathmik Girls School w.e.f. 01.04.2015 and certainly not from 01.07.2017. Thus, having regard to the facts of the case, the order dated 20.06.2017, promoting and appointing Mr Bobade, as Headmaster at Baloddyan Prathmik Girls School w.e.f. 01.07.2017, was not justifiable. In consequence, the said order dated 20.06.2017, stands modified to the extent, to say, that Mr Bobade, is promoted and appointed as a Headmaster at Baloddyan Prathmik Girls School w.e.f. 01.04.2015.

6. Insofar as, Writ Petition No.4677 of 2017, filed by Mrs Kale, is concerned, it appears, the Management was keen to continue her as In-charge Headmistress at Baloddyan Prathmik Girls School, by conferring on her financial and administrative powers. It is much, evident from the proposals moved by the Management and in particular communication/proposal dated 15.09.2016 (Annexure R-2-A) of the Writ Petition of Mrs Kale. Nevertheless, the fact remains, Mr Bobade, being senior most trained teacher and qualified to be appointed as Headmaster at Baloddyan Prathmik Girls School, in preference to Mrs Kale. Therefore, the order dated 20.06.2017, appointing Mrs Kale, In-charge Headmistress at Nutan Primary School, Amravati, w.e.f. 01.07.2017, calls for no interference.

7. In the result,

- i) Writ Petition No.4677 of 2017, filed by Mrs Kale, is dismissed.
- ii) Writ Petition No.586 of 2019, filed by Mr Bobade, is allowed.

8. In consequence, Mr Bobade, is entitled to be promoted and appointed as a Headmaster at Baloddyan Prathmik Girls School w.e.f. 01.04.2015. The Respondents – Management and Education Officer shall issue appropriate orders and approvals. Mr Bobade, shall be entitled to claim all consequential benefits on being appointed as a Headmaster w.e.f. 01.04.2015.

9. Both the petitions are disposed, in above terms.

(MRS. VRUSHALI V. JOSHI, J.) (SANDEEP K. SHINDE, J.)

TAMBE