

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 WRIT PETITION NO.2994 OF 2023

NAVYUVAJ SHIKSHAN PRASARAK MANDAL
THROUGH ITS PRESIDENT MANUJA RAMRAO BHOSALE AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

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Advocate for Petitioners:
Mr. B. L. Sagar Killarikar
AGP for Respondent/State: Ms. V. N. Patil-Jadhav
Advocate for Respondent No.3: Mr. Sanjay Kolhare

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AND

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909 WRIT PETITION NO.2995 OF 2023

NAVYUVAK SHIKSHAN PRASARAK MANDAL THROUGH ITS
PRESIDENT MANUJA RAMRAO BHOSALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

Advocate for Petitioners:
Mr. B. L. Sagar Killarikar
AGP for Respondent/State: Mr. P. G. Borade
Advocate for Respondent No.3: Mr. Sanjay Kolhare

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CORAM: ARUN R. PEDNEKER, J.

DATE: 15th MARCH, 2023

ORDER:

1. Heard.

2. By the present petitions the Petitioners are challenging the impugned order passed by the Presiding Officer, School Tribunal, Latur, whereby the applications filed by the petitioners raising objection to the maintainability of the proceedings before the School Tribunal were dismissed.

3. The brief facts are taken from Writ Petition No.2994 of 2023. Respondent No.3 employee of Petitioner nos.1 and 2. Respondent No.3 raised objection as regards the seniority vis-a-vis designation of Mrs. Sangeeta Ramrao Paitwar as a Headmistress of petitioner no.2 – Yashwantrao Chavan High School situated at Biloli, Taluka – Biloli, District – Nanded. The appeal is prosecuted by the parties since 2019. The petitioners society appears and filed his written statement. It is the case of the one Mrs. Sangeeta Ramrao Paitwar came to be designated as Headmistress of Yashwantrao Chavan High School, Biloli, Taluka – Biloli, District – Nanded by order dated 01.02.2019. The Education Officer

Zilla Parishad, Nanded accorded approval to the appointment of Mrs. Sangeeta Ramrao Paitwar. By the application dated 21.11.2022, the petitioners raised legal issue by way of preliminary objection to the maintainability of the appeal, primarily, on three grounds:-

- a) That the appeal is not maintainable against the Society as it relates to the supersession of Respondent No.3
- b) The promotion order of Mrs. Sangeeta Ramrao Paitwar was not annexed and challenged in the appeal memo.
- c) The Mrs. Sangeeta Ramrao Paitwar has been added in the capacity of Headmistress and not in her personal capacity.

4. Similar objections are raised by the society in the appeal filed by Respondent No.3 against the order of supersession of Shri Sukhanand Hanmantrao Wadle. The Tribunal considered both these matters together and by a common impugned order dated 01.02.2023, held at Paragraph Nos. 4, 5 and 6 as under:-

"4. It is pertinent to note that the appellant has challenged promotion order dated 03.06.2018 of Shri. Sukhanand Hanumantrao Wadle and dated 01.02.2019 of Sangeeta Ramrao Paitwar. They have made parties in the official capacity though the appellant has not made concerned parties in independent capacity. It shall be considered that Shri. Sukhanand Hanumantrao Wadle & Smt. Sangeeta Ramrao Paitwar have got intimation of appeals of challenging order of their promotion. They have filed their written statement in both the appeals jointly with respondent No.1. Furthermore, at this juncture it cannot be said that the appeal suffers serious lacuna to dismiss it on threshold for not making Shri. Sukhanand Hanumantrao Wadle & Smt. Sangeeta Ramrao Paitwar parties in personal capacity. Therefore, objection taken on this ground is not tenable.

5. The second objection of the applicant/ respondent No.1 & 2 is that the Secretary has issued both the orders dated 30.06.2018 & 01.02.2019 and he should have been made party in both the appeals. It is pertinent to note that the appeal is preferred against the Management of School. As the President is looking after the Management the appeal is filed making President as a party. The respondent No.1 in both the appeal is Navyuvak Shikshan Prasarak Mandal though the Secretary has issued the order of promotion merely because the Secretary has not made party it cannot be said that appeal is suffer from non joinder of necessary party. Therefore, that objection is not tenable. The 3rd objection of the respondent No.1 & 2 is that the appellant has not produced copy of order on record. The Learned Advocate of the respondent No.1 &

2 has brought the attention of the Tribunal to Rule-39 of M.E.P.S. Rules-1981. As per the said Rule the appeal memo shall be accompany by a copy of the order appealed against together with list of copies of documents if any. However, considering the written statement of the respondent No.1 & 2 in Para No.6 it is admitted that respondent No.2 is Head Master of the school and appellant failed to make respondent No.2 as party in personal capacity. Therefore, it is admitted position that, Shri. Sukhanand Hanumantrao Wadle & Smt. Sangeeta Ramrao Paitwar were promoted on the post of Head Master. Furthermore, as per the list of documents produced alongwith appeal the appellant has produced approval order of Shri. Wadle dated 07.06.2019. From the said order it can be seen that Shri. Wadle was appointed by the Management on 01.07.2018 as a Head Master and Smt. Paitwar was appointed as a Head Master from 01.02.2019 and therefore said objection is not tenable.

6. Furthermore, Mr. Wadle & Smt. Paitwar have superseded the appellant at different time. Firstly, on 01.07.2018 and secondly on 01.02.2019. Therefore, cause of action for both the appeals are different. It cannot be said that the appellant wants double promotion and for that purpose he has made two appeals."

5. The Tribunal has held that Mrs. Sangeeta Ramrao Paitwar as well as Mr. Sukhand Hanmantrao Wadle are parties in their official capacity. They have intimation of the appeals challenging their

promotion order and therefore it is not necessary to make them parties in their individual capacity.

6. The Tribunal has further held that the promotion order is issued by the petitioner society and Respondent No.3 does not have the promotion order. However, Respondent No.3 has produced the approval granted by the Education Officer to the promotions of Mrs. Sangeeta Ramrao Paitwar and Mr. Sukhanand Hanmantrao Wadle and, as such, there is no need to produce the actual promotion order on record, which is in possession of the management institute.

7. The orders of promotion are passed by the Petitioner Society and, as such, the appeals are maintainable against the Society. The Society can be represented through its President.

8. The Tribunal has specifically held that the matter is now at the final argument stage and the present application filed is only to delay the proceedings as the petitioner does not want the

Tribunal to decide the petition. The Tribunal has rejected the applications at the cost of Rs. 500/- each. The present writ petitions are devoid of any merits and there is no illegality committed by the Tribunal in passing the orders. As such, the Writ Petitions stand dismissed.

[ARUN R. PEDNEKER, J.]

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