

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3887 OF 2021

Nilofar Sarfaraz Attar,]
Age : 33 years, Occ.: Service,]
R/o. Flat No.10, A-Wing, Pride Apartment,]
Mujawar Wada, Baramati, Dist. Pune] .. Petitioner

Versus

1. The State of Maharashtra,]
Through it's Secretary,]
School Education & Sports Department,]
Mantralaya, Extension Building, Mumbai-32.]
2. The President,]
Grievance Committee & the Divisional President]
of Maharashtra State Secondary and Higher]
Secondary Education, Divisional Board, Pune.]
3. The Deputy Director of Education,]
Pune Region, Pune.]
4. The Administrative Officer,]
Education Department,]
Municipal Council, Baramati, Dist. Pune.]
5. Shaikh Shahed Salim Abdul Majeed,]
Age : ____ years, Occ.: Assistant Teacher,]
Urdu Municipal School No.4,]
Municipal Council, Baramati, Dist. Pune.] .. Respondents

Mr. Hanif Shaikh, with Mr. Onkar A. Wable, for the Petitioner.

Ms. A.A. Purav, AGP for the Respondent-State.

Ms. Neeta Dhonsekar, with Mr. S.R. Nargolkar, for Respondent No.4.

Mr. Rahul Kadam, with Mr. Aditya Aklekar, for Respondent No.5.

CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ

DATE : 11TH DECEMBER, 2023.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. RULE. Rule made returnable forthwith and heard learned counsel for the parties.

2. The petitioner is aggrieved by the order passed pursuant to the hearing that was conducted on 1st March 2021 by the 2nd respondent. By that order, it has been held that respondent no.5 is senior in service than the petitioner. Inter alia, it is submitted by learned counsel for the petitioner that the petitioner was not heard prior to adjudication of the issue of seniority. In that regard, he invites attention to the impugned order, wherein the presence of the parties, who had attended the proceedings, has been recorded. The petitioner's name does not figure in the said list. Averments in this regard have been made in paragraph 13 of the Writ Petition and there is no denial of the same.

3. We find from material on record that the hearing of the proceedings was conducted on 1st March 2021, for which there was no notice to the petitioner. Reference in the impugned order is to an application dated 9th April 2021, stated to be submitted by the petitioner after conclusion of the hearing. Considering the fact that the issue that requires adjudication is with regard to *inter se* seniority between the petitioner and respondent no.5, the interest of justice would be served by directing the 2nd respondent to hear the petitioner and respondent no.5 afresh and thereafter decide the complaint made by respondent no.5 on the aspect of seniority. To enable consideration of this issue, the petitioner, respondent no.5 and all concerned shall attend the office of the

2nd respondent on 20th December 2023 at 11:00 a.m. The 2nd respondent shall hear all concerned parties and thereafter decide the issue of seniority within a period of six weeks from that date. The decision taken shall be communicated to the parties. To enable such exercise to be undertaken, the impugned order dated 1st March 2021, in the form of Minutes of the meeting and the covering letter dated 27th May 2021, is set aside.

4. It is clarified that any party aggrieved by such adjudication is free to seek legal redress against the same. It is further clarified that this Court has not examined the merits of the rival contentions. Keeping all points raised open, the Writ Petition is disposed of with aforesaid directions. Rule accordingly.

[FIRDOSH P. POONIWALLA, J.]

[A.S. CHANDURKAR, J.]