



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

**WRIT PETITION NO.15374 OF 2023
WITH
CIVIL APPLICATION NO.3333 OF 2024
AND
CIVIL APPLICATION NO.4946 OF 2024
IN
WRIT PETITION NO.15374 OF 2023**

Chhotu s/o Dinkar Salunke,
Age 54 years, Occu. Service as
Assistant Teacher,
R/o At Post Anchade,
Tq. and Dist. Dhule.

..Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education & Sports Department,
Mantralaya, Mumbai - 400 032.
2. The Director of Education,
Maharashtra State, Pune
3. The Deputy Director of Education,
Nasik Division, Nasik
4. The Education Officer (Secondary),
Zilla Parishad, Dhule.
5. Jai Maharashtra Education Trust,
Anchale, Tq. & Dist. Dhule,
Through its President
6. Chunnilal Chudaman Salunke,
Age 54 years, Occ. Service i.e. Assistant Teacher,
R/o C/o Jayram Atmaram Salunke Secondary School,
Anchale, Tq. & Dist. Dhule
7. Mohan S. Desale,
Age: 55 years, Occu. Service i.e.
Education Officer(Secondary)
Zilla Parishad, Dhule.

..Respondents

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Mr. S. S. Deshmukh, Advocate for Petitioner.
Mr. A. S. Shinde, AGP for Respondent Nos.1 to 4.
Mr. S. R. Patil, Advocate for Respondent No.5.
Mr. P. D. Bachate, Advocate for Respondent No.6.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st JUNE 2024.

ORDER:-

1. The petitioner impugns the order dated 21.09.2023, granting temporary approval to appointment of respondent no.6 as in-charge Headmaster by the Education Officer (Secondary), Zilla Parishad, Dhule, in pursuance of proposal submitted by the management. Petitioner seeks further directions against the respondent-management to appoint him on post of Headmaster and forward such proposal for approval.

2. Mr. Sachin Deshmukh, learned Advocate appearing for the petitioner vehemently submits that the petitioner is eligible and entitled for the appointment on the post of Headmaster. However, attempts are made by the management of the school to defeat his right. The management had appointed Mr. Anant Bhikan Ahirrao as in-charge Headmaster, who is junior to the petitioner. However, he did not accept the post. Mr. Deshmukh urges that as per order dated 21.07.2023 passed by the Education Officer, the petitioner has been declared as senior most teacher and entitled for the appointment on the post of Headmaster. However, in defiance of the aforesaid directions, respondent no.6 has been appointed as in-charge Headmaster for the period of three months w.e.f. 22.08.2023.

3. It is submitted on behalf of the petitioner that the service record of respondent no.6 was not satisfactory. He was dismissed from service after inquiry into serious charges. Later on

management arrived at settlement with him only with intention to defeat petitioners right. While assessing character of respondent No. 6 for the purpose of eligibility criteria, under Rule 3 of 1981 Rules, his past record cannot be ignored. The person to be appointed as head of the school must have flawless character.

4. Having considered submissions advanced, it can be noticed that the impugned order dated 21.09.2023 passed by the Education Officer (Secondary), Zilla Parishad, Dhule made an ad-hoc arrangement that too for the period of three months lasting till 22.08.2023. Admittedly arrangement was not continued thereafter. On the other hand, the record indicates that one Mr. Premanand Amrutlal Upacharya, Cluster Head has been appointed to discharge the function of the Headmaster, particularly for the purpose of release of results of examinations of the pupils.

5. Admittedly respondent no.6 has been reinstated in the service. Now, seniority list relied upon by the management depicts him to be senior most teacher in the school. The petitioner has serious objection to the seniority list maintained by the management. Consequently, issue as to the seniority vis-a-vis the petitioner and respondent no.6 requires adjudication by the competent authority. Although in terms of order dated 26.09.2023 passed by this Court, the Education Officer considered the issue of seniority, respondent no.6 was not heard or his claim as regards to the seniority was not subject matter of consideration, as he was out of service owing to dismissal from service. The situation is changed after his reinstatement.

6. In light of these peculiar facts, it would be appropriate to relegate the parties to the Education Officer, who shall decide the

issue as regards to the *inter se* seniority between the petitioner and respondent no.6. The Education Officer shall grant opportunity of hearing to the petitioner, respondent no.6 and the management of the school and decide the *inter se* seniority in accordance with the Rules. The concerned parties shall appear before the Education Officer-respondent no.4 on 24.06.2024 alongwith written submissions, supported by the documents. The Education Officer after hearing all concerned, shall take his decision within a period of eight (08) weeks from the date of appearance of the parties. Based upon the decision of the Education Officer, the respondent-management shall be at liberty to take steps for filling up the post of Headmaster in accordance with the Rules.

7. Writ Petition stands disposed of in aforesaid terms.

8. In view of disposal of Writ Petition, pending Civil Applications stand disposed of.

(S. G. CHAPALGAONKAR)
JUDGE