

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

WRIT PETITION NO. 7624 OF 2022

Keshav Dadarao Pawar

...Petitioner

Versus

The President

The New Education Society

...Respondent

Dr. Suresh T. Mane a/w Ms. Babita Pandey, Mr. Dinesh Sonawane,
Mr. Vikas Shivgan for the Petitioner.

Ms. V.S. Nimbalkar, A.G.P. for the Respondent – State.

Mr. Prashant Bhavake, for respondent No.1.

CORAM : AVINASH G. GHAROTE, J.

DATE : 4th JULY 2024

P.C.:

1. The petition questions the Judgment dated 06.04.2022 passed by the the learned School Tribunal dismissing the appeal of the present petitioner, rejecting the claim that the petitioner was superseded by the management by appointing the respondent No.4 to the post of Headmaster. It is contended that there were three schools run by the management and therefore in terms of provisions of Rule 9(10) of the Maharashtra Employees of Private

Schools (Conditions of Service) Regulation Rules, 1981, Rule of 33% reservation was applicable which having not been done, the claim of the petitioner has been incorrectly rejected.

2. Mr. Prashant Bhavake, learned counsel for the respondent No.1 opposes the contention by submitting that there are only two sanctioned post of Headmaster, though there are three schools run by the management, however, on account of reduction of strength the post of one headmaster, was not sanctioned, on account of which the above position has arisen in view of which the Rule of 33% reservation cannot be applied, since there are only two sanctioned posts.

3. Dr. Suresh Mane, learned counsel for the petitioner does not dispute the factual position that as on the date of the claim for promotion, there were only two sanctioned post of Headmaster, considering which if the Rule 33% reservation is applied, that would transgress the boundary of 33% and make it 50% which is impermissible in law. I therefore do not see any reason to interfere in the impugned judgment. In view of the above position, the petition is dismissed. No costs.

4. Any claim which the petitioner may have regarding the claim of sanction for the third post, cannot be entertained by this Court as the same would be lie before the learned Division Bench.

(AVINASH G. GHAROTE, J.)