

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

WRIT PETITION NO. 6545 OF 2021

Bhagavat Sudhakar Patil

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr. Akshay S. Karlekar i/b. Mr. Arvind G. Ambetkar, for Petitioner.

Mr. S. B. Kalel, AGP for Respondent Nos. 1 to 3-State

Mr. Umesh H. Pawar, for Respondent Nos. 4 & 5.

Mr. Mihir Desai, Senior Advocate a/w. Mr. Ashwin R. Kapadnis, Mr.

Promod Kathane, Mr. Maonj Sawardekar for the Respondent No. 6

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 16 APRIL 2024

P.C.:

1. Heard learned Counsel for the parties.
2. The Petitioner has challenged the order passed by the Grievance Committee constituted under the Government Resolution dated 26 February 2020, whereby the Grievance Committee set aside the approval granted to transfer of the Petitioner from unaided to aided section from 16 July 2020 as per notification dated 8 June 2020.
3. This order was passed on the grievance made by the Respondent No. 6, whose contention was that it is the Respondent No. 6, who is

entitled for such transfer.

4. In this Petition, ad-interim order was granted on 8 October 2021 whereby the order dated 27 September 2021 was stayed.

5. As regards the issue of jurisdiction, the State Government had taken time on various occasions, different affidavits came to be filed and finally the Deputy Secretary on behalf of the State has filed an affidavit dated 16 April 2024 clarifying the position as regards the jurisdiction of the Grievance Committee established under the Government Resolution dated 26 February 2020. This Government Resolution dated 26 February 2020 established a Grievance Committee to resolve the issue between the Management and its employees, which are not covered under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act 1977. This Committee was constituted upon this Court pointing out the lack of forum for the employees in respect of their disputes with the Management, which do not involve termination and other such major incidents of service stated in section 9 of the Act.

6. Now the Government Resolution dated 27 March 2024 is issued by the State Government constituting an Appellate Authority. Constitution of the Appellate Authority under this Government Resolution specifically deals with the relationship of Management, employees and the Education Authority and therefore, the Deputy

Secretary has pointed out that these two Government Resolutions operate in separate spheres.

7. The point (C) subject 5 of the Government Resolution dated 26 February 2020 created the impression that this Grievance Committee could also set aside the orders of the Education Officer. The State has pointed out that there is clear anomaly and corrigendum is being issued.

8. Even otherwise from the bare perusal of the Government Resolution dated 26 February 2020 and the objects of forming Grievance Committee, it is clear that this Grievance Committee could not have set aside the order of the Education Officer granting approval.

9. As stated above, by way of interim order, the impugned order is stayed.

10. Since, we propose to set aside the impugned order on the ground of lack of jurisdiction of the Grievance Committee and not on merits and fact that there was an ambiguity in the Government Resolution dated 26 February 2020, we do not intend to render the Respondent No. 6 remediless.

11. In view of the above position, the impugned order is quashed and set aside.

12. We permit the Respondent No. 6 to approach the Appellate Authority constituted under the Government Resolution dated 27 March 2024. If the Respondent No 6 files an Application/Appeal to the said

Appellate Authority within a period of 3 weeks then the delay in filing such Appeal stands condoned. The Appellate Authority will make an endeavour to dispose of the Application/Appeal, subject to earlier time bound commitments and other procedural formalities within a period of 8 weeks thereafter. The Appeal will be decided on its own merits for which we keep rival contentions open.

13. If the Respondent-Management has submitted any proposal in respect of any additional posts and if the decision on the proposal in respect of the additional posts are not to affect the Appeal that the Respondent No. 6 intends to file, then it is open for the Education Authority to take decision upon the said proposal.

14. The Writ Petition is disposed of in above terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)