



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8686 OF 2021

Vijay Kumar Babanrao Jadhav

...Appellant.

Versus

Solapur Zilla Parishad

Primariy Education Dept And Ors.

...Respondents.

Adv. Ranjit Sinde for the Petitioner.

Adv. Ashok Misal for Respondent Nos. 1 & 2.

Adv. Ashwin R. Kapadnis & Vivek Rane for Respondent No. 4.

Adv. Snehal Jadhav, AGP for the State.

Coram : Sharmila U. Deshmukh, J.

Date : October 14, 2024.

P. C. :

1. Mr. Yagnik, learned counsel for Respondent No. 4 would point out the Full Bench decision of this Court where the Full Bench of this Court held that the issue of seniority including the issue of qualification having bearing on seniority can be decided only by the School Tribunal in the Appeal filed by such a person under Section 9(1) of The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 read with Rules, 1981 [for short MEPS Act].

2. Learned counsel for the Petitioners would submit that by virtue of the order dated 31st January, 2020 passed by the Education Officer refusing to condone the break in service, the said order if not set aside would come in his way while the appeal is being decided by the School Tribunal.

3. By the present Petition, the Petitioner has sought to impugn order dated 31st January, 2020 as well as the order dated 7th July, 2021 passed by the Education Officer, Primary by which issue of seniority has been decided by the Education Officer.

4. Considering the Full Bench decision of this Court, as the issue of seniority can be challenged only by way of an Appeal under Section 9(1) of the MEPS Act I am not inclined to entertain the Petition under Article 226 of the Constitution of India.

5. It is open for the Petitioners to file an appropriate Appeal under Section 9(1) of the MEPS Act, before the School Tribunal. In any event, the order of 31st January, 2020 passed by the Educational Officer refusing to condone the break in service cannot be a subject matter of challenge before the Single Judge.

6. In light of the above, the Petition is disposed of with liberty to the Petitioner to file an appropriate Appeal before the School Tribunal under Section 9(1) of the MEPS Act.

7. Needless to clarify that this Court has not gone into the merits of the matter and as such all the rights and contentions of both the parties are expressly kept open.

8. In view of disposal of the Petition, Interim Application, if any, taken out in the Petition does not survive for consideration and stands disposed of.

[Sharmila U. Deshmukh, J.]