

SA Pathan

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

WRIT PETITION NO.7881 OF 2018

Bachcha Chatradhari Chauhan

... Petitioner

V/s.

Republican Education Society Through
The President & Ors

... Respondents

Ms. Panthi Desai i/by M. P. Vashi Associates, for
Petitioner.

Mr. Mandar Limaye i/by Mr. Ketan Dhavale, for
Respondent Nos.1 & 2.

Mr. R. S. Pawar, AGP, for State/Respondent Nos.4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 1, 2024

P.C.:

1. Rule.

2. Rule is made returnable forthwith.

3. The petitioner is challenging order dated 4 September 2017 passed by the School Tribunal dismissing the Appeal No.27 of 2006 mainly on the ground that the School Tribunal has no jurisdiction to entertain the appeal as the management was minority institution. The petitioner has filed an affidavit relying on information furnished under the provision of the Right to

Information Act, 2005 issued by the Minorities Development Department, Mantralaya, Mumbai certifying that with the respondent there is no document available with the Department to evidence the factum of respondent management being minority institution.

4. Learned Advocate for the respondent submits that the documents dated 29 August 1997 and 3 November 1989 issued by the Deputy Director of Education and Education Officer, Municipal Corporation School Board, contains a recital that the respondent is minority institution.

5. The power to declare an institution to be minority institution is available only with Minority Development Department of State of Maharashtra. Only the certificate issued by such department conferring the status of either linguistic or religious minority shall confer status of minority institution. In absence of such document, the Tribunal could not have relied on any other document to record a finding that the respondent institution was minority institution. Hence, the finding recorded by the School Tribunal holding that the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ('MEPS Act') are not applicable, deserves to be quashed and set aside. Hence, following order:

i) The impugned order dated 4 September 2017 passed by the School Tribunal below Exhibit 11 in Appeal No.27 of 2006 is quashed and set aside.

ii) The Appeal No.27 of 2006 is restored to the file of Additional

School Tribunal, Navi Mumbai.

iii) The School Tribunal shall consider the appeal on merits since the appeal is of the year 2006. The School Tribunal is directed to decide the appeal within three months from the date of appearance of the parties.

iv) The parties shall appear before the School Tribunal on **12 February 2024 at 10:30 p.m.**

6. All contentions of the parties on merits are kept open to be agitated before the School Tribunal.

7. Rule is made absolute in above terms.

8. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)