

SA Pathan

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

WRIT PETITION NO.837 OF 2024

Shri Vile Parle Kelavani Mandal (SVKM)
& Anr

... Petitioners

V/s.

Anuradha Gangadhar Joshi & Ors

... Respondents

WITH

WRIT PETITION NO.838 OF 2024

Shri Vile Parle Kelavani Mandal (SVKM)
& Anr

... Petitioners

V/s.

Shalini Joachim Correia & Ors

... Respondents

WITH

WRIT PETITION NO.839 OF 2024

Shri Vile Parle Kelavani Mandal (SVKM)
& Anr

... Petitioners

V/s.

Josna Ajit Pawar & Ors

... Respondents

Mr.Sudhir Talsaria, Sr. Advocate, Mr. Gaurav Srivastava
& Ms. Manorama Mohanty and Ms. Mittal B. Nor a/w
Mr. Kunjan Makwana i/by S K Srivastava & Co., for
Petitioners in all Writ Petitions.

Ms. Praseena Elizabeth Joseph, for Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 1, 2024

P.C.:

1. The petitioners in all these writ petitions are challenging the order passed by the School Tribunal postponing adjudication on the issue of maintainability of appeal on the ground that under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (“MEPS Act”) are inapplicable to the post occupied by the respondent.
2. According to the petitioners, the appointment order, sanctioned order and averments in paragraph 2 of memo of appeal and paragraph 5 of the reply filed by the respondent *ex-facie* indicate that the post occupied by the respondent is recognized by the Municipal Corporation. In absence of recognition from the State Government, provisions of MEPS Act did not apply and, hence, appeal before the School Tribunal was not maintainable. According to him, the issue is pure question of law which does not require leading of evidence.
3. On perusal of the impugned order, it appears that the impugned order was passed on 9 August 2023. The present petitions were filed on 8 December 2023. Record indicates that the praecipe for circulation of the present writ petitions was filed on 19 January 2024. However, according to the petitioners’, their Advocate moved before the Division Bench. In the meantime, the petitions having been refused to be considered by the Division Bench, petitioners moved Single Judge.
4. As of today the respondents have completed their final arguments and the appeal is fixed for final argument of

petitioners. Considering the said fact, it is not necessary to consider the petitioners submission on merits as adjudication on the said issue may prejudicially affect rights of the parties before the School Tribunal. However, since final argument of the respondents has been already over, it would be in the fitness of things that at this stage, the School Tribunal need not be directed to set clock back to decide preliminary issue as requested by the petitioners. It will be open for the petitioners to raise all the issues as are permissible in law including issue of maintainability of appeal based on contentions referred above. If, such contentions are raised, it will be obligatory to the School Tribunal to decide such issue along with other issues raised by the parties.

5. Therefore, in my opinion, the impugned order passed by the School Tribunal need not be interfered by taking consideration subsequent event of completion of final arguments by respondents. Hence, by keeping the questions referred above open, all the writ petitions are stand disposed of. No costs.

(AMIT BORKAR, J.)