

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

WRIT PETITION NO. 7621 OF 2021

Yunus Mubarak Shaikh

... Petitioner

V/s.

The Education Officer (Primary)

Zilla Parishad, Solapur & Ors.

... Respondents

with

INTERIM APPLICATION NO. 7245 OF 2024

in

WRIT PETITION NO. 7621 OF 2021

Anita Mansingh Rathod

... Applicant

V/s.

Yunus Mubarak Shaikh

... Respondent

Mr. Narendra V. Bandiwadekar, Senior Advocate with Mr. Yogesh G. Thorat i/b. Ashok B. Tajane for the Petitioner

Mr. Rupesh Bobade for Respondent Nos. 1 and 4

Mr. Anant Vadgaonkar for Respondent No.5

Mr. A.R. Kapadnis for Respondent No. 7

Mr. Vikas Mali, AGP for Respondent Nos. 2 and 3

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

DATE : 12 JUNE 2024

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Deputy Director of Education, the consequence of which is that the Respondent No.7 and not the Petitioner would be posted from the unaided to aided division within the Respondent – Management.

3. The dispute centres around seniority of the Petitioner and the Respondent No.7. The Deputy Director of Education has passed the impugned order based on the order passed by the Respondent No.1 - Education Officer on 20 January 2021. The Education Officer under Rule 12 of the Maharashtra Employees of Private Schools (Conditions of Services) Rules, 1981 is the authority to decide the disputes regarding seniority of the employees of the private schools. The order dated 20 January 2021, though declares the Respondent No.7 as senior, states that the same is not a final order as the entire details are not yet available to the Education Officer and therefore, it should be considered as an interim order. Taking note of this position this Court has twice called upon the Respondent No.1 - Education Officer to clarify whether any final order has been passed.

4. The learned Counsel for the Respondent No.1 has drawn our attention to the communication dated 12 August 2021 addressed by the Education Officer (Primary) to the Respondent No.1 – Deputy Director of Education for confirmation of the order. The course of action adopted by the Education Officer is not as per

the Rules. The Education Officer, under Rule 12 performs *quasi judicial* function to determine disputes regarding seniority. The parties are entitled to challenge the said decision. Therefore, the Education Officer will have to pass final order as per Rule 12 of the MEPS Rules.

5. Accordingly, we direct the Respondent No.1 – Education Officer to pass an order under Rule 12 of the MEPS Rules upon the dispute raised by the Respondent No.7 regarding the seniority of the teachers vis-a-vis the Petitioner. The Respondent – Management will submit all the necessary documents to the Education Officer with copies to the Petitioner and Respondent No.7. Thereafter, the Education Officer, upon giving an opportunity to all the concerned parties, will pass an order under Rule 12 of the MEPS Rules within a period of four weeks. Copy of the order be placed on record by way of an affidavit.

6. Stand over to **5 August 2024**.

7. Ad-interim order to continue.

M.M. SATHAYE, J.

NITIN JAMDAR, J.