

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

WRIT PETITION NO. 9696 OF 2024

Anita Bijayendra Tiwari.

... Petitioner

Versus

Education Officer (Secondary)
Division & Anr.

... Respondents.

Mr. Sugandh B. Deshmukh a/w. Mr. Bhushan G. Deshmukh, Mr. Vaibhav Thorve, Mr. Aniket Kanawade, Mr. Irvin D'Souza, Ms. Karishma Shinde, Advocate for the Petitioner.

Mr. V.M. Mali, AGP for Respondent No. 1 & 2/State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 30th APRIL, 2025

P.C. :

1. The first order passed by the earlier Bench of this Court dated 5th August, 2024 reads as under :

“ It is not stated before us that as on today the Respondent-Trust (Vidya Vikas Mandal) where the Petitioner is stated to be working is dissolved. If the Petitioner seeks approval for Petitioner's appointment for which proposal is to be submitted then the Trust must be made party respondent. If it is entirely non-functional then option is to appoint an Administrator which Petitioner has not prayed for.

2. The Petitioner is granted leave to join the Trust as party respondent.

3. The learned counsel for the Petitioner also seeks leave to amend for incorporating the prayers and pleadings in respect of appointment of Administrator. Leave is granted. Amendment to be carried out within a period of one week.

4. Issue notice to the added Respondent, returnable on 4 September 2024.”

2. The learned Advocate appearing on behalf of the aggrieved teacher/Petitioner submits that the trust has practically become non-functional. Only one trustee is now surviving and he has been restrained by the order of the Charity Commissioner from operating the trust single handedly.

3. Be that as it may, today, the issue before us is with regard to the administration of the Janata High School, Secondary Division, Vishrantwadi, Pune. There is an issue with regard to the Head Master. The Petitioner is a lady teacher who claims to be senior most. Since there is no trust functional, the outgoing HM recommended the name of the Petitioner. In such a peculiar facts and circumstances, the Education Officer will have to take extra efforts and verify from the records and, if

required, interact with the stakeholders to assess as to who is the eligible senior most teacher to be appointed as the HM. If the appointment order of the two senior most teachers is same, since the clause of eligibility is operable, he may consider as to who is the better qualified in order to resolve the dead lock.

4. Let such exercise be carried out within a period of 45 days from today. In the event, the Petitioner has made a statement of fact that she is presently in-charge of Head Master, she may continue till the decision of the Education Officer. Keeping in view that the Petitioner would superannuate on 30th June, 2025, we would expect the Education Officer to resolve this issue by 15th June, 2025.

5. We clarify that we have not expressed any opinion about this issue. Nevertheless, in the event, the Petitioner is concluded to be a most eligible senior most teacher to be Head Master, her pension papers would be accordingly forwarded expeditiously.

6. The **Petition is disposed off** accordingly.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)