IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5926 OF 2023

Dattatray Sarjerao Awaghade .. Petitioner

Versus

The Saswad Mali Education Society,
At Malinagar, Tq. Malshiras, Dist.
Solapur through its President
and others .. Respondents

Shri Narandra V. Bandiwadekar, Senior Advocate a/w Shri Sagar Mane, Shri Rushikesh D. Jagdale and Ms. Neha Farkate, i/by Ms. Ashwini Badiwadekar, Advocate for the Petitioner.
Shri Prashant Bhawake, Advocate for the Respondent Nos. 1 and 2.
Shri Sanjay D. Rayrikar, A.G.P. for the Respondent Nos. 3 and 4.
Shri Amit Sale, Advocate a/w Shri Aditya Patil and Shri Shreyas Karajgar, Advocates for the Intervenor.

CORAM : SHAILESH P. BRAHME, J.
DATE : 23RD OCTOBER, 2026.

FINAL ORDER :

. Heard both sides.

2. Heard finally with the consent of the parties and due to the exigency expressed by them.

3. The petition is directed against the order dated 14.03.2023 passed by the Presiding Officer, School Tribunal, Solapur in Appeal No. 32 of 2022. The respondent No. 5 Mr. Kallappa

Baburao Birajdar had approached the School Tribunal U/Sec. 9 of the Maharashtra Employees of Private Schools (Regulation of Service Condition) Act (for the sake of brevity and convenience hereinafter referred as to the 'M.E.P.S. Act') against order dated 01.06.2022 passed by the respondent No. 3 – Education Officer. His grievance was that he was working as a Supervisor and the proposal submitted to the Education Officer was rejected as the petitioner was held to be senior. Appeal was allowed by the impugned judgment and order directing the management to restore post of Supervisor. This Court granted rule and interim relief in the matter.

4. Learned counsel Mr. Bhavke for the respondent Nos. 1 and 2 on instructions of the respondent No. 5, who is present in this Court makes a candid statement that respondent No. 5 wants to withdraw Appeal No. 32 of 2022, which was allowed by the impugned order. It is submitted that 01.06.2022 is not the order of reduction in rank passed by the management. The said order is susceptible to challenge before the competent forum and Tribunal cannot be the said forum U/Sec. 9 of the M. E. P. S. Act.

5. Learned senior counsel appearing for the petitioner and the learned Assistant Government Pleader for the respondent Nos. 3 and 4 have no serious objection as the the respondent No. 5 is withdrawing the appeal itself.

6. I have gone through the order dated 01.06.2022, which was passed by the Education Officer under Rule 12 of the M. E. P. S.

Rules determining interese seniority between the petitioner and the respondent No. 5. The petitioner is held to be senior. Mr. Bhavke, learned counsel has rightly contended that the Education Officer could not have passed any order of reduction in rank and as such order dated 01.06.2022 is only determination of seniority. The order passed under Rule 12 of the M.E.P.S. Rules by the Education Officer can be challenged before the competent forum. I find that the exercise of jurisdiction by the Tribunal is vulnerable in such a situation.

7. I find no difficulty in permitting the respondent No. 5 to withdraw his appeal and challenge order dated 01.06.2022 before the competent authority. In view of supervening events, I find that nothing survives to be adjudicated in the writ petition. Leave is granted to the respondent No. 5 to withdraw the Appeal No. 32 of 2022 and consequentially impugned judgment and order passed by the School Tribunal shall stand quashed.

8. The respondent No. 5 shall be at liberty to challenge order dated 01.06.2022 before the competent forum as is permissible in law. This Court has not expressed any opinion on merits and all points are kept open. The parties shall act accordingly as the impugned judgment and order is quashed and set aside.

9. The writ petition is disposed of. Rule stands discharged.

[SHAILESH P. BRAHME J.]

bsb/Oct. 26