

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

WRIT PETITION NO. 16846 OF 2024

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Aafrin Abdul Qadir Shaikh

... Petitioner

Versus

The State of Maharashtra,
Through The Secretary School Education And Sports
Department and Ors.

... Respondents

.....

Mr. Prashant Bhavake for the Petitioner.
Mr. I.M. Khairdi for the Applicant in IA
Mr. Lokesh Zade (through VC) for Respondent No.4.
Ms. T.J. Kapre, AGP for the Respondent - State.

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**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 4th MAY, 2026.

P. C. :

1. At the outset, it would be necessary to record the fact that in respect of the same post of Head Master of respondent No.5 – School, this Court has decided the grievance of one of the other employee, namely Altaf Ahmed Rasool Saheb Jakler in Writ Petition No. 12174 of 2024. In the said writ petition the issue which was raised by that employee was that his name was recommended by one group of the Management on the nominated post of Head Master in terms of Section 3(2) of the Maharashtra Employees of Private Schools (Conditions of

Service) Regulation Act, 1977 (for short “MEPS Act”). However, the Deputy Director of Education, by his order dated 10th July 2024 rejected the proposal as there is dispute between the members of Management who administrate the School. This Court has dismissed the said petition by holding that if there is no valid Management in the School, then the proposal under Section 3(2) of the MEPS Act cannot be accepted by the Deputy Director of Education. The findings recorded in the said petition are having a direct bearing in the present matter.

2. In the present petition, the submission of the petitioner is that though the post of Head Master being nominated and same is approved as a nominated post by the Deputy Director of Education, in view of dispute between the members of Management the post is required to be filled in by applying the rule of seniority only.

3. In the present matter, to decide the controversy involved in the matter it would be relevant to refer to Section 3 of the MEPS Act, which reads as under:-

“3. Application of Act.

(1) The provision of this Act shall apply to all private schools in the State of Maharashtra, whether receiving any grant-in-aid from the State Government or not.

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall not apply to the recruitment [of the Head of a minority school and] any other persons (not exceeding three)

who are employed in such school and whose names are notified by the Management to [the Director or, as the case may be,] the Deputy Director for this purpose.”

4. From the perusal of this provision, it is clear that once the post is nominated and approved by the Deputy Director of Education of minority School, then to that post the provisions of MEPS Act and Rules framed thereunder are not made applicable. The prerogative was given to the Management to appoint the person of their choice on the said nominated post, without applying the provisions of MEPS Act and rules framed thereunder.

5. In the background of this legal position, if the contention of the petitioner is to be accepted that by applying the rule of seniority, she should have been appointed on the nominated post, in our opinion, in that case, it would be necessary first the nominated post should be de-notified. After such de-notification, the post can be filled in by applying the rule of merit cum seniority as like in normal post in the School. In the present case, it is undisputed that the post of Head Master is nominated in the year 2010 by the Management and approved by the Deputy Director of Education. Till date the same is not de-notified in the matter.

6. In our considered opinion, Section 3(2) of the MEPS Act is very

much clear. According to this provision, the role of the Management is crucial to forward the name of employee. As per this provision, irrespective of the qualification and seniority, the Deputy Director of Education is required to verify whether the proposal which was forwarded to his office is valid or not. Therefore, the Deputy Director of Education, in the present matter, has rightly held that as there is a dispute in the Management, the name forwarded by one of the group of the Management cannot be accepted by him on the notified post.

7. It is further pertinent to note that in Writ Petition No. 12174 of 2024, we have upheld the order of the Deputy Director of Education, Pune dated 10th July 2024. As such, the same is applicable in the present matter. As the order of Deputy Director of Education is operating the field and the post of Head Master is not de-notified by any order of the competent authority, we are of the opinion that the petitioner cannot claim the post on the basis of seniority cum merit in the matter.

8. Hence, for the aforesaid reasons, we do not find any merit in the present petition. Accordingly, the same stands dismissed with no order as to costs.

9. In view of dismissal of the petition, pending applications if any, also stand dismissed.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]