
(2006) 09 BOM CK 0132

In the Bombay High Court

Case No : Writ Petition No. 4587 of 2005

Pramod Shamrao Bhandarkar

APPELLANT

Vs

Presiding Officer, Additional School Tribunal and Others

RESPONDENT

Date of Decision : 06-09-2006

Acts Referred:

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act,
1977 — Section 5

Citation : (2006) 6 BomCR 774

Hon'ble Judges : Gavai B.R., J

Bench : Single Bench

Advocate : A.G. Joshi, for the Appellant; C.N. Adgokar, AGP for respondent Nos. 1 and 4 and A.R. Patil, for the Respondent

Judgement

Gavai B.R., J.—Rule. Rule is made returnable forthwith. Heard finally by consent of the parties. Shri C.N. Adgokar, learned Assistant Government Pleader waives notice on behalf of the respondent Nos. 1 and 4 and Shri A.R. Patil, the learned Counsel waives notice on behalf of the respondent Nos. 2 and 3.

2. By way of present petition, the petitioner challenges the order dated 11th April, 2005, vide which, the learned Additional School Tribunal has decided the preliminary issues. By the impugned order, the learned Tribunal has held that though the School was a recognized school as defined under the MEPS Act, the appointment of the appellant was not made u/s 5 of MEPS Act and the Rules thereunder. The learned Tribunal also held that the approval granted by the Education Officer to the appointment of the petitioner is also not in accordance with law.

3. Perusal of the impugned order would show that the learned Tribunal has held that the appointment of the petitioner was not in accordance with MEPS Act and the Rules thereunder since the post was reserved for Scheduled Tribe and the petitioner has himself given an undertaking that he would not claim the permanency on the same post if he is terminated.

4. Perusal of the approval order dated 14th July, 1997 would reveal that the appointment of the petitioner was approved by the Education Officer for a period of two years with effect from 15.7.1997. It can also be seen from the impugned order that the learned Tribunal has not taken into consideration the roster point so as to come to the conclusion as to whether the post on which the petitioner was appointed was reserved for Scheduled Tribe. It also does not appear from the impugned order as to whether the learned Tribunal has considered the aspect as to whether the post on which the petitioner was appointed was clear and permanent vacancy.

5. Taking into consideration all these aspects, I am inclined to quash and set aside the impugned order dated 11th April, 2005. The appeal is remitted back to the learned Tribunal for consideration afresh. It is made clear that the observations made herein are upon prima facie appreciation of material on record and the learned Tribunal would consider the issues afresh by taking into consideration the rival submissions. The learned Tribunal is directed to decide the appeal as expeditiously as possible preferably within a period of six months from today.

6. The petition stands disposed of in aforesaid terms. Rule is accordingly made absolute with no order as to costs.