



Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.609 OF 2024

MRS SHILPA P. PAI
PANANDIKAR

... PETITIONER

Versus

STATE OF GOA AND ORS.

... RESPONDENTS

Mr S.D. Lotlikar, Senior Advocate with Mr Terence Sequeira, Advocate for the Petitioner.

Ms Sulekha Kamat, Additional Government Advocate for Respondent Nos.1 and 2.

Mr Rui Gomes Pereira, Advocate for Respondent Nos.4 and 5.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
M. S. KARNIK, J.**

DATE: 26th SEPTEMBER 2024

P.C. :

1. We have heard Mr S.D. Lotlikar, learned Senior Counsel for the petitioner, Ms Sulekha Kamat, learned Additional Government Advocate representing the State Authorities (respondent nos.1 and 2) and Mr Rui Gomes Pereira representing respondent nos.4 and 5. Despite respondent no.3

having been sufficiently served no one has put in appearance on his behalf.

2. The proceedings of this petition under Article 226 of the Constitution of India have been instituted with a prayer to quash the Office Order dated 31.07.2024 passed by the President/Chairman of Vidya Bharati Goa/Shree Ganesh Higher Secondary School, Ganeshpuri-Mapusa Goa, whereby charge of officiating Principal of Shree Ganesh Higher Secondary School, Ganeshpuri-Mapusa Goa has been given to respondent no.3.

3. The ground of challenge in the said officiating Order is that the petitioner being senior to the respondent no.3 ought to have been given the officiating charge of the Principal.

4. A further prayer has been made for issuing a direction to hold the Departmental Promotional Committee to consider the promotion to the post of Principal of Shree Ganesh Higher Secondary School.

5. In terms of provisions contained in Rule 86 of the Goa Education Rules 1986, if vacancy to the post of Principal of a Higher Secondary School arises, it has to be filled up by

promotion. It further prescribes that while filling up of the posts, the managements shall first explore the possibility of selecting the senior most teacher from the next below category indicated in the said Rules. The said Rule though is for regular promotion, however, we are of the opinion that even for giving officiating charge rule of seniority has to be given due respect. Unless something adverse is found against the teacher concerned, officiating charge of the Principal ought to be given to the senior most teacher.

6. Learned Counsel representing the school management, on instructions, has submitted that the arrangement of giving officiating charge of post of Principal has been made considering the fact that in the school science subjects have been introduced for the first time and teaching in the science subjects is in the nascent stage, as such, the post of officiating charge of Principal was given to respondent no.3 as he has educational background in science. The aforesaid reason, however, in our opinion, is not sustainable as in case of regular promotion such a precondition is not applicable and thus, it is the seniority which has to be given due weightage for giving

officiating charge as well. Such a reason cannot be taken aid of to ignore the seniority of teacher concerned.

7. At this juncture, learned Counsel for respondent nos.4 and 5 submits that a course correction shall be undertaken by the Institution and the entire matter shall be revisited for the purposes of giving officiating charge of the post of Principal of the Institution keeping in view the broad principles contained in Rule 86 and also having due regard to the seniority.

8. Accordingly, we direct that such an exercise shall be undertaken by the management of the Institution and claim of the petitioner for giving officiating charge shall be preferably considered and appropriate orders shall also be passed within ten days from today. We may also note that officiating charge cannot remain in perpetuating. As a matter of fact, the vacancy for the post of Principal of the Institution concerned occurred on retirement of the earlier incumbent on 31.07.2024. Thus, we direct all concerned, including the Government authorities to initiate the process of regular promotion to the post of Principal by convening the Departmental Promotional Committee at the earliest. We also direct that the exercise for

making regular promotion to the post of Principal shall be completed within two months from today.

9. With the aforesaid directions, Writ Petition stands disposed of.

10. We request the learned State Counsel to communicate this order to all concerned, forthwith.

M. S. KARNIK, J.

THE CHIEF JUSTICE