

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15326 OF 2023

Suma Ramesh Ghute ...Petitioner
Versus
The Maharashtra State Council of Examination & Ors. ...Respondents

WITH
WRIT PETITION NO.15327 OF 2023

Sampada Prakash Khamkar
after marriage Sampada Chetan Mhatre ...Petitioner
Versus
The Maharashtra State Council of Examination & Ors. ...Respondents

Mr Ashok B Tajane, with Athira H Nair, for Petitioners.

Mr Sumedh S Modak, i/b Vijay Killedar, for Respondent No.1.

Mr Graham Francis (V/C) i/b Vishwanath Talkute, for Respondent No.6 in WP 15327/2023.

Mr Sachin S Punde, with Suraj Jadhav & Mansi Bansode, for Respondent Nos.6 and 7 in WP 15326/2023.

Mr P P Kakade, AGP with Mr V. G. Badgujar, AGP for Respondent – State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 02nd SEPTEMBER 2026

P.C.

1. Both the Writ Petitions involve identical issues; hence, they are being decided by this common Judgment and Order.

2. By way of these Writ Petitions under Article 226 of the Constitution of India, the Petitioners seek a relief that the orders dated 3rd August 2022 and 14th October 2022 passed by Respondent No. 1 – Commissioner; the oral order dated

26th October 2023 passed by Respondent No. 2 – Additional Tribal Commissioner, Thane; and the order dated 3rd November 2023 passed by the Project Officer of Respondent No. 5 – Ministry of Tribal Development be quashed and set aside.

Facts in Writ Petition No. 15326 of 2023

3. The Petitioner is working as an ‘Assistant Teacher’ in Respondent No. 7 – Primary Ashram Shala in Ranshet. She completed her Diploma in Education (D.Ed.) in September 2010. She was appointed as a Shikshan Sevak from 22nd September 2014 to 21st September 2017. Respondent No. 2 appointed her as a Primary Shikshan Sevak on 11th November 2016. In accordance with the Government Resolution (‘GR’) dated 23rd June 2017, the Government of Maharashtra introduced the Pavitra Portal to promote transparency in the selection process of teachers and implemented the Teacher Eligibility Test (‘TET’) for the first time. Respondent No. 6 – Management conferred permanent status upon the Petitioner by order dated 5th October 2017, subsequent to the completion of three years of service as a Shikshan Sevak.

4. By GR dated 14th November 2017, the Government of Maharashtra declared that candidates qualified in the C-TET are eligible for appointment as teachers for Standards 1 to 8. Respondent No. 1, the Maharashtra State Council of Examination, administered the Maharashtra-TET on 15th July 2018. The Petitioner secured reasonable marks in the aforementioned examination from the reserved category (ST). On 19th January 2019, she received her final approval order. Subsequently, on 19th June 2019, the State issued a notice for inclusion on the

Pavitra Portal. The Petitioner again appeared for the TET examination conducted in the year 2019.

5. Respondent No. 1, by its order dated 3rd August 2022, held the Petitioner liable for malpractices in the Maharashtra TET examination of 2019. Subsequently, by a separate order dated 14th October 2022, Respondent No. 1 found the Petitioner responsible for malpractices in the TET examination of 2018. By order dated 30th October 2023, this Court, in identical matters involving other teachers, directed that no coercive action be taken against such teachers, who were Petitioners in Writ Petition No.13499 of 2023, as well as other related petitions. This Court confirmed the said order by its order dated 1st November 2023. Despite the aforementioned orders, the Project Officer of Respondent No. 5 passed an order dated 3rd November 2023, instructing the Management to stop the Petitioners' salaries in view of the oral order dated 26th October 2023, passed by the Additional Tribal Commissioner, Thane. The Petitioner learnt about the orders dated 3rd August 2022 and 14th October 2022 only on 3rd November 2023 from the Teachers' Union. Hence, she is before this Court.

Facts in Writ Petition No. 15327 of 2023.

6. The Petitioner is working as an 'Assistant Teacher' in Respondent No. 7 – Anudanit Prathamik Ashram Shala, Waki. She completed her D. Ed. in September 2011, securing 83.35%. She was appointed as a Shikshan Sevak from 13th January 2014 to 12th January 2017 by order dated 6th January 2014, issued by Respondent No. 6 –Management, based on her H.S.C. qualification with D. Ed. Her appointment as a Primary Shikshan Sevak was further sanctioned by Respondent

No. 2 – Additional Tribal Commissioner, by order dated 14th July 2014. Respondent No. 6 – Management, made the Petitioner permanent by order dated 14th January 2017, i.e., on completion of three years of service as a Shikshan Sevak.

7. The Petitioner appeared for the Maharashtra TET exam conducted by Respondent No. 1 on 15th July 2018. She scored 64.66% from the open category, surpassing the 60% qualifying mark. On 11th December 2019, Respondent No. 2 granted her final approval as a regular primary teacher, effective from 13th January 2017. She later appeared for the TET-2019 exam again and scored 60.14%. In August 2023, she appeared for the C-TET conducted by the Central Board of Secondary Education, New Delhi, scoring 94 out of 150. The result was declared on 25th September 2023.

8. Respondent No.1, by its order dated 3rd August 2022, held the Petitioner liable for malpractices in the Maharashtra TET examination of 2019, cancelled her result, and permanently debarred her from appearing in any further TET examination. By a separate order dated 14th October 2022, Respondent No.1 held the Petitioner liable for malpractices in the TET examination of 2018 and passed identical directions cancelling the result of that examination. Neither order was served on the Petitioner. Despite the orders of this Court dated 30th October 2023 and 1st November 2023 referred to above, the Project Officer of Respondent No.5 passed an order dated 3rd November 2023 directing the Management to stop the Petitioner's salary in view of the oral order dated 26th October 2023 passed by the Additional Tribal Commissioner, Thane. The said order was served on the Petitioner by the Head Master on 3rd November 2023; only upon enquiring with

the Teachers' Union, did the Petitioner learn of the orders dated 3rd August 2022 and 14th October 2022. Hence, she is before this Court.

9. Heard Mr Ashok B Tajane, learned counsel for the Petitioners; Mr Sumedh S Modak, learned counsel for Respondent No. 1; Mr P. P. Kakade, learned AGP for Respondent – State; Mr Sachin S Punde, learned counsel for Respondent No. 6 in Writ Petition 15326 of 2023; and Mr Graham Francis, learned counsel for Respondent No. 6 in Writ Petition 15327 of 2023.

Analysis

10. The issue in these Writ Petitions is already covered by various judgments of this Court. In its orders passed in various identical petitions, this Court has observed that the TET conducted in the year 2019-20 by Respondent No. 1 is the subject of controversy in several proceedings, as Respondent No. 1 has admitted that there were malpractices on a large scale. Accordingly, Respondent No. 1 notified the debarment of 7880 candidates, who, according to Respondent No. 1, are likely to have benefited from the malpractices. A similar exercise has been undertaken by Respondent No. 1 in respect of the TET examination held on 15th July 2018, in which, according to the impugned order dated 14th October 2022, 1663 candidates are stated to have secured qualification by malpractice. However, till date, there is no finality regarding the investigation in either examination. Both Petitioners in the present Petitions aver that neither of them is concerned or connected with the alleged malpractices, and there is no material against them in that regard.

11. The Division Bench of this Court in its order dated 1st November 2023

observed as under:

“3. Prima facie we find much substance in the contentions as urged on behalf of the petitioners. It cannot be that a blanket action is taken merely on the basis of the impugned order dated 3 August 2022, as also so far no action has been resorted against the petitioners, when malpractices as alleged pertain to the examination held about 4-5 years back after the order having been passed. Respondent No.1 has even not informed to the employers of the petitioner, Respondent Nos. 6 & 7 nor to the other respondents. If this be the case, there cannot be a coercive action against the petitioners unless due procedure in law is followed.

4. We are accordingly of the opinion that the present proceedings can be conveniently disposed of by observing that in the event any material is available against the petitioners, Respondent No.1 shall communicate such material through Respondent Nos.3 & 4 to Respondent No.6 and in such event an action against the petitioner is being taken, the same be taken by following the due procedure in law.

5. All contentions of the parties on such issues are expressly kept open. However, till such material is available and communicated, as observed by us above, no coercive action merely on the basis of the order dated 3 August 2022 be taken against the petitioners.

6. It is informed by Mr. Bubna, learned counsel for the petitioner that on the basis of the order dated 3 August 2022, the salary of the petitioner has been withheld. As we have already observed, in the event there is any material against the petitioner, the appropriate procedure will be required to be followed. The salary of the petitioner cannot be withheld merely on the basis of the impugned communication dated 3 August 2022. Respondent Nos.4 & 5 are accordingly directed to release the outstanding salary of the Respondent Nos.4 & 5.

7. In the event, a proposal is received from Respondent Nos. 6 & 7 in pursuance of any proposal which is forwarded by Respondent Nos.6 & 7, an appropriate action in this regard be taken within a period of six weeks from today.”

12. Mr. Tajane, the learned counsel appearing for the Petitioners, also drew our attention to the order dated 4th November 2023 passed by this Court in Writ

Petition No. 13796 of 2023. Paragraphs 3 to 5 of the said order are as follows:

“3. Mr. Tajane has drawn our attention to the fact that this Court has decided a batch of petitions in the case of **Savita Vyankatrao Deshmukh Vs. The Maharashtra State Council of Examination & Ors.**¹ by an order dated 30th October, 2023. It is the submission that the present proceeding would be covered by the said orders passed by us.

4. Learned counsel for the respondents would also not dispute such submission. This petition accordingly can be conveniently disposed of in terms of our order passed in the case of **Savita Vyankatrao Deshmukh Vs. The Maharashtra State Council of Examination & Ors. (supra)** and other batch of matters.

5. We accordingly direct that the concerned Authorities shall immediately take steps to disburse the salaries of the petitioner which are withheld only for the reason of the blanket action taken by respondent no.1. The salary be accordingly released within a period of two weeks from today.”

13. This Court (Aurangabad Bench) has passed similar orders in as many as 808 petitions. In all these cases, the teachers, i.e., the Petitioners therein, have been protected from coercive action.

14. Thus, Mr Tajane submitted that the present proceedings would also be covered by the previous orders aforesaid. Mr P. P. Kakade, the learned Additional Government Pleader, has not shown us any order interfering with the aforesaid orders. These petitions can therefore be conveniently disposed of in terms of the previous orders mentioned above.

15. We accordingly direct the concerned authorities to immediately take steps to disburse the salaries of the Petitioners, which have been withheld solely on account of alleged malpractices in the TET examinations of 2018 and 2019-2020 despite the Petitioners rendering regular service. The salaries shall be released within three

¹ Writ Petition No. 13499 of 2023 dated 30th October 2023.

weeks from today.

16. However, we grant the Respondents liberty to proceed against the Petitioners in the event of any material being found against them in any pending investigation, which shall be strictly following the appropriate procedure in accordance with law.

17. Both the Writ Petitions stand disposed of in the aforesaid terms. No costs.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)

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