

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 10006 OF 2014 IN WP/7699/2013

JAMIL AHMED AZIZ AHMED PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Kalyan Patil h/f Mr. S.R. Barlinge
AGP for Respondent1 : Mr. S.G.Karlekar

...
CORAM : S.S. SHINDE & V.K. JADHAV, JJ.
Dated: March 05, 2015
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PER COURT :- (Per V.K.Jadhav, J.)

1. By filing this Civil Application, the applicant/original petitioner in the Writ petition seeks to correct his qualification mentioned in the order dated 7.5.2014 passed by this Court in Writ Petition No.7699 of 2013 by mentioning 'Art Drawing Teacher' (A.T.D.) instead of 'Diploma in Special Education'.

2. The learned counsel for the applicant submits that, the similarly situated teachers had filed Writ Petition No.4902 of 2012 before the Principal Seat at Mumbai, wherein a comprehensive interim order came to be passed protecting the interest of those teachers. The learned counsel for the applicant further submits that, in view of the said interim order, this Court has also passed the interim order dated 7.5.2014 mentioning therein that, the petitioner is having qualification of 'Diploma in Special Education' instead of mentioning the actual qualification of the petitioner as 'Art Drawing Teacher' (A.T.D.).

3. The learned AGP appearing for respondent No.1 submits that, the qualification of Diploma in Special Education is held to be equivalent with the D. Ed. qualification and the candidates possessing qualification of diploma in special education are held to be trained teachers. They are thus protected by the aforesaid interim order passed by the Principal Seat at Mumbai. The applicant herein is having a diploma in Art Drawing Teacher which is of one year's duration, thus same cannot be termed as equivalent with the Diploma in Special Education. Learned AGP further submits that, the applicant, till this date, inspite of absorption as an untrained teacher in primary school, has not yet acquired D.Ed. qualification within stipulated period of three years. Learned AGP thus lastly submits that, the corrections as sought by the applicant does not merit consideration and Civil Application thus deserves to be rejected.

4. On careful perusal of the order dated 21.11.2012 passed by this Court in Writ Petition no.4902 of 2012 at Principal Seat at Mumbai, it appears that the petitioners therein have a requisite qualification to be treated as 'Trained Teachers' as the qualification of Diploma in Special Education (DSE) has been conferred upon them by the Rehabilitation Council of India. Considering the stand of the Rehabilitation Council of India, the Hon'ble Division Bench at Principal Seat, in the aforesaid Writ Petition observed that, the Diploma in Special Education is a two years' Regular Course of the Council and course is equivalent to D.Ed. In view of the said observations, the Hon'ble Division Bench at Principal Seat, by interim

order as aforesaid, directed the respondents to pay the petitioners the salaries and allowances in the pay scale of a Trained Teacher within the meaning of the Government Resolution dated 15.9.2010 till the disposal of the Writ Petition. It thus appears that, the qualification as possessed by the present applicant/petitioner is not covered under the said order passed by the Division Bench of this Court at Principal Seat. It appears that, the applicant's qualification as a Art Drawing Teacher is of one year duration and same cannot be treated as equivalent to Diploma in Special Education and consequently, equivalent to D.Ed. qualification as claimed by the applicant. It was demonstrated before this court that the case of the applicant is identical to the case of the petitioners dealt with by the Division Bench of this Court at Principal Seat. According to us, Civil Application is not only liable to be rejected but the interim order dated 7.5.2014 passed by this Court in Writ petition No.7699/2013 is also liable to be vacated. Hence, following order.

ORDER

1. Civil Application is hereby rejected.
2. The interim order dated 7.5.2014 passed in Writ petition No.7699/2013 stands vacated.
3. Civil application stands disposed of.

(V.K. JADHAV, J.)

(S.S. SHINDE, J.)