

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****WRIT PETITION NO. 910 OF 2015**

SHAIKH SAKINA AFREEN ALTAF AHMED
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Surti Zainab M.
AGP for Respondent/State : Mr. P.G. Borade
Advocate for Respondent no.2 : Mr. Nikam Anup R.

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**CORAM : S.S. SHINDE &
P.R. BORA, JJ.**

RESERVED ON : 23rd DECEMBER, 2015

PRONOUNCED ON : 4th MARCH, 2016

PER COURT :-

Heard the learned counsel appearing for the parties.

2. The learned counsel appearing for the petitioner submits that, on the day of exam itself i.e. on 14th December, 2014, the petitioner and other students at the centre have made complaint to the Chief examiner at the examination centre about pointing out the irregularities committed in the TET exam paper of Urdu Medium. It is submitted that, the

part of the question paper was of English and Marathi and this part of the paper was properly typed, however, the rest of the paper, which was in Urdu, was hand written. It is submitted that, the question paper was full of overwriting, corrections, and scratches. The spacing between the lines was not at all there. There was no margin also. The words so used while framing of question were such, which are never used in Urdu language. It is further submitted that, the proof reading of the paper was never done. If it would have been done, the question paper so distributed would not be the same, as while proof reading all the mistakes are corrected and retyped and rechecked, and then only the paper are finalized to be given in the exams to the students. It is further submitted that, as per the Government resolution dated 23rd August, 2013, all the responsibility and authority was given to Respondent No.2 – Maharashtra State Council for examination in regards to the TET exams management and administration. The learned counsel appearing for the petitioner invited our attention to the copies of the documents placed on record, and submits that, it was impossible for the petitioner and other eligible candidates, who have appeared for the examination, to answer the question papers, which were with full of mistakes

and also not properly framed. Therefore, the learned counsel appearing for the petitioner submits that, the Respondents may be directed to conduct fresh exam of MAHA-TET-2014 of Urdu medium, and also seeks directions to withhold the results of Urdu medium MAHA-TET-2014 exams.

3. In pursuant to the notices issued to the respondents, the Respondent No.2 has filed affidavit in reply. It is stated in the affidavit in reply that, various candidates and Urdu Teachers Associations, have raised objections about some questions and requested for conducting re-examination. In all more than 86 objections were received about the questions for conducting TET exam. Those objections were considered by the Respondent Authorities. The experts were requested to give their opinion about the said objections, raised by the candidates. The experts in Urdu medium, after verification of objections, given their opinion in writing and rejected all objections with reasons in writing. It is submitted that, two questions at sr. nos. 118 and 119 of Math's subject of Paper-I were found wrong in printing and the same were already cancelled for all students including the petitioner. Therefore, the examination was conducted out of 140 marks.

The learned counsel appearing for the Respondent no.2 invited our attention to the report given by the experts, which is placed on record at Exhibit R-1 of the affidavit in reply. It is further submitted that, the first TET examination was conducted on 15th December, 2013. It is found that, there were some printing mistakes, and therefore, the Authorities decided that, the question paper is required to be prepared by handwriting, as per the opinion and advise of experts in Urdu Medium subject. Sum and substance of the arguments of the learned counsel appearing for the Respondent No.2 is that, the experts have expressed their opinion about the objections raised by the petitioner and other candidates. The learned counsel also invited our attention to the averments in the affidavit in reply and submits that, the Petition may be rejected.

4. We have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the Respondents. With their able assistance, we have perused the pleadings in the Petition, annexures thereto and also the copies of the documents tendered across Bar by the learned counsel appearing for the Respondent No.2, wherein the

experts names, qualifications and also dates of appointment in the Government service with remarks, has been placed on record.

5. Upon careful perusal of the experts qualifications and experience, their expertise cannot be doubted. They are well qualified and having sufficient experience. Upon perusal of the averments in the affidavit in reply and annexures thereto, we are satisfied that, to some extent the care has been taken for redressal of the objections raised by the petitioner and other candidates. However, upon perusal of the objections raised by the candidates, who appeared for examination, we wish to issue note of caution to the Respondent No.2 that, the Respondent No.2 should be more careful in future, while preparing the question papers and there should not be any room for committing irregularities. In view of the provisions of R.T.E. Act, TET is made compulsory for the teachers and therefore, future of such candidates/teachers depends upon passing of such examination, and therefore, slightest mistake committed by the Respondent No.2 in preparation of question papers, affects on the candidates. We do not wish to elaborate on this

point.

6. In the fact and circumstances of this case, we are of the opinion that, since the objections of the petitioner have been examined by the Respondent No.2 through experts. While exercising the writ jurisdiction neither it is desirable to test their expertise nor substitute the opinion of the experts of the subject. In that view of the matter, we are not inclined to entertain the Petition. Hence the Petition stands rejected.

(**P.R. BORA, J.**)

(**S.S. SHINDE, J.**)

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