

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

14 WRIT PETITION NO.7343 OF 2020
WITH CA/10302/2021 IN WP/7343/2020

Smruti Pramod Bhele

.. Petitioner

Versus

The State of Maharashtra and Others

.. Respondents

...

Mr. S.R. Kolhare, Advocate for the Petitioner.

Mr. S.B. Yawalkar, AGP for Respondent No.1.

Mr. V.G. Salgare, Advocate for Respondent Nos.3 and 4.

...

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : NOVEMBER 22, 2021

PER COURT :

1. By this petition, the petitioner has put forth prayer clauses **B, C, D, E and F**, which read as under :

“B. By Writ of Certiorari or any other appropriate writ or direction like nature or order, the communication dated 24th August 2018, passed by the Respondent No.1, may kindly be quashed and set aside.

C. By Writ of Mandamus or any other writ or direction like nature, it may kindly be held that, the TET is not compulsory examination for the Primary Teachers who is working in the Minority Schools.

D. By writ of Mandamus or any other writ or direction like nature, the Respondents may kindly be directed to conduct the TET examination after framing new syllabus by ignoring earlier attempts of TET examination.

E. Pending hearing and final disposal of this Writ Petition, the effect, execution and implementation of the impugned communication dated 24th August 2018, issued by the Respondent No.1, may kindly be stayed.

F. Pending hearing and final disposal of this Writ Petition the respondents, their servant, agent or any person acting on their behalf may kindly be restrained from taking any adverse action the Petitioner.”

2. By the Civil Application, further addition to the grounds and deletion of a sentence from paragraph - 5 of the petition that an advertisement was published in daily 'Sanjshakti' on 13-08-2013, is sought.

3. We have briefly considered the submissions of the learned Counsel for the respective sides. There is no dispute as regards the following:

- (a) No advertisement is published by the Management ;
- (b) No selection committee was formed ;
- (c) There has been no selection by any committee as there were no contesting applicants.

(d) No appointment order has been issued to the petitioner.

4. The disputed aspects in this case are as under :-

(a) The petitioner claims that she was selected and appointed on an application filed by her ;

(b) The management claims that she was engaged on contractual basis on a monthly stipend of Rs.3,000/-, from 02-07-2018 till 17-03-2020 ;

(c) The petitioner disputes that she was appointed on a stipend of Rs.3000/- ;

(d) The petitioner contends that she was appointed on a permanent vacant post ;

(e) The management disputes that she was appointed on a permanent vacant post ;

(f) The management relies on page - 39 annexed to it's reply to the Civil Application to contend that the petitioner was paid her stipend on pro rata basis and her signatures are available on the payment sheet ;

(g) The petitioner submits that she is not aware of the said sheet and disputes payment of any stipend or her signatures.

5. In view of the above, we are not inclined to entertain the challenge to the TET examination made applicable to regularly selected candidates. When the petitioner herself has not applied pursuant to any advertisement, was not subjected to a selection process by competing with other applicants, when no prior permission of any authority was taken to recruit her and when there is no appointment order issued to her, this petition is, therefore, dismissed.

6. Insofar as the claim of the petitioner that she has been illegally terminated by the Management and she has not been paid her monthly salary, we leave the petitioner to a remedy as may be permissible in law.

7. Pending Civil Application No.10302 of 2021 does not survive and stands disposed off.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)