

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

27 WRIT PETITION NO.14793 OF 2019

MUNSHI SHAGUFTA BEGUM SAMIUDDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Patil Vijay B.
AGP for Respondents/State : Mr. S.B. Yawalkar
Advocate for R/4 : Mr. D.S. Mali

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**CORAM : SMT. VIBHA KANKANWADI &
Y.G. KHOBRAGADE, JJ.**

DATE : 17th October, 2022

PC. :-

Heard all the concerned advocates. By this writ petition, the petitioner has prayed for quashing and setting aside the order dated 01/10-04/10/2019 passed by respondent (Education Officer, Primary, Latur). The petitioner contends that he is Assistant Teacher having qualification of HSC, D.Ed. It is contended that respondent-school was not having status of minority institution and still he has been declared surplus as well as for non possession of TET qualification, the impugned order came to be passed.

2. Learned advocate appearing for the petitioner relies on the order passed by this Court on 19.09.2022 in **Writ Petition No.13214/2019** (Shaikh

Rijwana Begum Mohammad Shafiyoddin V/s. The State of Maharashtra and Ors.). By the said order this Court had quashed and set aside similar type of communication and in view of the statement made even on behalf of the respondent nos.5 and 6 therein, who are also the respondent nos.5 and 6 in the present petition that the school was indeed identified as minority education institution but the relevant certificate was erroneously not placed along with the proposal. Under the said circumstances, this Court had directed the respondent - Management to submit a fresh proposal before the respondent no.4 along with the copy of the certificate of the school regarding the minority education institution, if any, then the said proposal be decided within a particular period. When the present petitioner is also similarly situated from the same institution and serving in the same post, it would be appropriate that the similar treatment be given to the petitioner.

3. Learned AGP is pointing out the order passed by this Court in **Writ Petition No.13770/2018** and companion matters that when this Court was of the view that the earlier decision in respect of whether the TET qualification is necessary for the appointment, so also for continuation of the teachers in minority aided or unaided institutions were required to be revisited, reconsidered. The matter has been referred to the larger bench by order dated 01.03.2019. In this connection, now the learned advocate for the

petitioner herein submits that in the said earlier Writ Petition No.13214/2019, the point was not at all considered regarding the objections and all the issues were left open and simply liberty was given to the Management to submit a fresh proposal. Similar treatment is required to be given in this petition also. Hence the following order is passed:

ORDER:

- (i) The order dated 01/10-04/10/2019 passed by the respondent no.4 is set aside.
- (ii) The respondent – Management may submit a fresh proposal before respondent no.4 along with copy of a certificate certifying that the school has been identified as minority education institution. The said proposal be decided within a period of four months from today.
- (iii) It is made clear that we have not considered the merits of the other two objections of surplus teacher and non possession of TET qualification. All the issues are accordingly left open.
- (iv) Writ Petition stands disposed of.

[Y.G. KHOBRADE, J.]

[SMT. VIBHA KANKANWADI, J.]