

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6875 OF 2022

Pooja Rajesh Pandey ... Petitioner.

Versus

Municipal Corporation of Greater Mumbai
(MCGM) and others. ... Respondents.

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Mr. Anantkumar L. Gore, Advocate for the Petitioner.
Mr. Santosh Darad, for the Respondents/MCGM.
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**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATE : December 5, 2022.

P. C. : (Sharmila U. Deshmukh, J):

1. By the present Petition, the Petitioner challenges the termination of the services of the Petitioner effected by the Respondent No.1-Municipal Corporation of Greater Mumbai, Education Department vide order dated 28th April, 2020 for non clearance of Teachers Eligibility Test (for short “TET”).

2. Heard learned counsel appearing for the parties.

3. It is the case of the Petitioner that pursuant to an advertisement published on 10th June, 2013 issued by the Respondent No.2 - Headmaster, Vile-Parle (East) Mumbai Public School, inviting applications for the post of Shikshan Sevak, the Petitioner was

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appointed vide appointment letter dated 13th June, 2014. The advertisement inviting applications for the post of Shikshan Sevak did not mention any date by which the Petitioner was expected to clear the TET examination. However, in the appointment letter it has been mentioned that the TET was required to be clear by 31st March, 2015. Subsequently, the Respondent No.1 called for all the Shikshan Sevaks to submit their TET clearance certificates by 15th September, 2016. The Petitioner appeared for the TET examination held on 16th January, 2016, but failed to clear the examination. The Petitioner again appeared for TET examination conducted on 15th July, 2018 and succeeded by obtaining 97 marks out of total 149 marks.

4. The TET certificate was received by the Petitioner in the month of September, 2019 from the office of the Respondent No.1. In the month of March, 2020, the Petitioner was called upon to submit the original TET Certificate to the respondent No.1, which the Petitioner submitted on 13th March, 2020 and also received an acknowledgment with Inward No.2316/13.03.2020. Subsequently, the Petitioner was informed that the Petitioner's TET certificate was cancelled and she was advised to appear for TET examination afresh. On 28th April, 2022, the impugned order was issued by the Respondent No.1 cancelling her appointment of Shikshan Sevak with effect from 30th March, 2019 on the ground that the Petitioner has failed to clear TET examination, for which the deadline was 30th March, 2019. The present Petition challenges the termination order of 28th April, 2022.

5. Learned counsel appearing for the Petitioner submits that the Petitioner had cleared her TET examination which was conducted on 15th July, 2018 and the original certificate has been submitted by her to the office of the Respondent No.1. The impugned order of termination is issued on the ground that the Petitioner has failed to clear the TET examination before 30th March, 2019. It is his contention that in view of this certificate awarded to the Petitioner which is at page 26 of the petition, the impugned order which is based on the solitary ground of non clearance of TET examination is untenable.

6. An affidavit-in-reply has been filed by one Tauheed Shaikh R, Administrative Officer (School) K (East) Ward on behalf of the Respondent Nos.1 to 3-MCGM. In the said affidavit, it has been stated that the Petitioner had not submitted original certificate but a photocopy of the TET certificate which was forwarded to the Maharashtra State Council of Education, Pune (for short, "MSCE") & Education Inspector (West Zone) Ismail Yusuf College for scrutiny on 20th June, 2022. The MSCE by its communication dated 29th June, 2022, has informed the Respondents that the certificate with Seat No.1206210040 in the MAHATET 2018 examination is not eligible and that the certificate forwarded by the Respondents is a forged certificate as it has not been issued by the MSCE. There is a rejoinder of the Petitioner to the said affidavit-in-reply filed by the Respondents. In spite of a positive assertion being made by the Respondents that the certificate which has been submitted by the Petitioner is forged certificate, there is no denial to the said assertion

in the rejoinder. All that the rejoinder states that the Respondents have failed to take any steps in respect of the forged certificate.

7. We have considered the rival submissions of the parties. The clearance of TET examination by 31st March, 2019 is a mandatory requirement for the Petitioner to continue as a Shikshan Sevak. It is clear from the Affidavit in reply of the Respondents that the Petitioner had failed to clear the TET examination, to which there is no denial by the Petitioner. The hair splitting argument advanced by learned Counsel for Petitioner that the impugned order based on non clearance of TET examination is erroneous as on that date the Petitioner had submitted her TET clearance certificate is liable to be rejected. The requirement is to clear the TET examination, which has not been fulfilled by the Petitioner. Considering the fact that MSCE has certified the TET certificate as forged, we are not inclined to interfere with the impugned order. The submission of forged TET certificate cannot be countenanced.

8. In our opinion, the impugned order terminating the services of the Petitioner does not suffer from any legal infirmity as the Petitioner has failed to meet the requirement of clearance of TET examination.

9. Writ Petition is accordingly dismissed.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]