

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

WRIT PETITION NO.5408 OF 2023

SHABBIR ANSARI EDUCATION SOCIETY PATHRI THROUGH ITS
PRESIDENT ABDUL HABIB ANSARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS
...

AND

WRIT PETITION NO.5903 OF 2023

SHABBIR ANSARI EDUCATION SOCIETY PATHRI THROUGH ITS
PRESIDENT ABDUL HABIB ANSARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

AND

WRIT PETITION NO.5906 OF 2023

SHABBIR ANSARI EDUCATION SOCIETY PATHRI THROUGH ITS
PRESIDENT ABDUL HABIB ANSARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

AND

WRIT PETITION NO.5910 OF 2023

SHABBIR ANSARI EDUCATION SOCIETY PATHRI THROUGH ITS
PRESIDENT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS
...

Advocate for Petitioners : Mr. S S Kazi
AGP for Respondent Nos. 1 and 2: MR. S.B. Pulkundwar.
Advocate for respondent No.3 : Mr. S.R. Yadav Lonikar.

**CORAM : MANGESH S. PATIL
& S.G. CHAPALGAONKAR, JJ.**

DATE : 12th JUNE, 2023

P.C.:-

Heard learned advocate for the petitioners in all these petitions, as also, the learned AGP for respondent Nos. 2 and 3 and Mr. Lonikar, Advocate for the respondent No.3, Education Officer, Zilla Parishad, Parbhahi.

2. The petitioners are minority institutes and teachers working in the schools run by it. They are all aggrieved by the impugned order of even date i.e. 6.3.2023, whereby respondent No.2 Deputy Director of Education, has refused to approve the recommendation of the school to enter the names of these teachers in the On-line Portal – SEVARTH, through which their salaries are disbursed. The proposal for approval has been rejected on several grounds, *inter-alia*, that the petitioners/teachers have not cleared the Teachers Eligibility Test (TET) examination.

3. It appears that subsequent to the impugned orders, an attempt was made by the petitioners to remove the shortcomings, by a separate communication addressed to the respondent No.3 Education Officer, by the Head Master of the school dated 10th April, 2023.

4. As far as rest of the compliances are concerned, it would always be open for the respondents to consider the explanation, if at all their request for including the names of the teachers in the SEVARTH Pranali is to be re-considered. So far as the aspect of eligibility for want

of clearing the TET examination, this Court has already considered and decided that even this eligibility criteria of clearing TET examination would be applicable to the teachers in minority institutes. Admittedly, the order of this court is under challenge before the Supreme Court in SLP Diary No. 26291 of 2022, wherein, the Supreme Court has granted interim relief in the form of a direction to maintain status-quo. Needless to state that as far as the requirement of eligibility is concerned, the fate of the petitioner would depend upon the ultimate decision to be rendered by the Supreme Court.

5. Suffice for the purpose to observe that rest of the grounds referred to in the impugned communication can be reconsidered. We feel it appropriate to permit the petitioners to approach the respondent authorities in terms of the subsequent explanation dated 10.4.2023. This is not an adversarial litigation. Doors cannot be shut at the threshold. If the petitioners are able to satisfy the authorities about their entitlement to include their names on the SEVARTH Pranali, it would always be open for them to approach the authorities and the authorities would be under obligation to re-consider it on its own merit. Obviously, such decision would be further subject to the outcome of the ultimate decision in the matter before the Supreme Court.

6. We allow the writ petitions partly. Impugned orders/communication of the respondent No.2 dated 6.4.2023 are quashed and set aside. Respondent No.2 shall now consider and decide the petitioners' claims on their own merits by extending an opportunity of being heard and by considering their subsequent compliances made by them with communication dated 10.4.2023. However, in view of the

peculiar circumstances referred to hereinabove, since the petitioners' entitlement would depend upon the ultimate decision of the Supreme Court as far as their eligibility for want of clearance of TET is concerned, that decision cannot be had at this juncture.

7. Resultantly, while considering the proposal of all these petitioners, the respondent No.2 shall not reject it on the ground of pendency of the matter before the Supreme Court and the proposal would be considered keeping aside the ground of TET clearance by the petitioners. The decision shall be taken afresh, as expeditiously as possible and in any event, within eight weeks. It is expressly made clear that the petitioners would not be entitled to claim equities.

8. Writ petitions stand disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

grt/-