

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

903 WRIT PETITION NO.8534 OF 2023
WITH CA/11401/2023 IN WP/8534/2023

HINA KAUSAR MOHAMMAD RIYAZ
VERSUS
THE STATE OF MAHARASHTRA
THROUGH EDUCATION AND SPORTS DEPARTMENT
AND OTHERS
AND

905 WRIT PETITION NO.11252 OF 2023

SHAHEEN PARVEEN MOHAMMAD HAYAT AND OTHERS
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND

906 WRIT PETITION NO.11257 OF 2023

SHAIKH SALMAN SHAIKH MAHEBOOB AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND

907 WRIT PETITION NO.11258 OF 2023

MOHAMMAD ANEES ABDUL AZIZ AND OTHERS
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND

908 WRIT PETITION NO.11259 OF 2023

SHAIKH INTEKHAB AALAM MOHAMMAD RAFIQUE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND

909 WRIT PETITION NO.11260 OF 2023

SUNIL SITARAM BHOYE AND OTHERS

VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND
910 WRIT PETITION NO.11262 OF 2023

ISE KHAN NOOR KHAN AND OTHERS
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
911 WRIT PETITION NO.11269 OF 2023

PRITEE SOMNATH NIKAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS CHIEF PRINCIPAL SECRETARY AND OTHERS
AND
912 WRIT PETITION NO.11270 OF 2023

ROHINI SAMPATRAO THEUDRKAR
VERSUS
THE UNION OF INDIA
THROUGH ITS SECRETARY AND OTHERS
AND
913 WRIT PETITION NO.11275 OF 2023

SHAIKH SHAFEEQ SHAIKH NIZAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS CHIEF PRINCIPAL SECRETARY
AND OTHERS
AND
914 WRIT PETITION NO.11277 OF 2023

ZUBAIR SHAH GULAMGAUS SHAH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
915 WRIT PETITION NO.11278 OF 2023

URMILA KHEMJI GAMBHIRE AND ANOTHER

VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
916 WRIT PETITION NO.11279 OF 2023
WITH WP/11520/2023

KALYAN PRABHAU SHEP AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
917 WRIT PETITION NO.11280 OF 2023

HAIDER ALI SHAH USMAN SHAH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS CHIEF PRINCIPAL SECRETARY
AND OTHERS
AND
918 WRIT PETITION NO.11282 OF 2023

HINA KAUSAR IQBAL KHAN ALIAS HINA KAUSAR MOGHAL
RIYAZBAIG
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
919 WRIT PETITION NO.11283 OF 2023

SHAH PARVEZ AHMED QAYYUM SHAH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
920 WRIT PETITION NO.11286 OF 2023

ASHWINI ASHOKRAO BHADANE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
921 WRIT PETITION NO.11287 OF 2023

SHUBHAM DEVENDRA SHUKLA
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS
AND
922 WRIT PETITION NO.11292 OF 2023

IMRAN AYYUB KHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
923 WRIT PETITION NO.11293 OF 2023

SUFIYAN FAROOQUE SHAH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS
AND
924 WRIT PETITION NO.11294 OF 2023

VIKAS BABURAO PARDHI
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
925 WRIT PETITION NO.11295 OF 2023

IRAM SABA SHAIKH MOHAMMAD SHAKEEL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
926 WRIT PETITION NO.11302 OF 2023

VISHAL KRISHNADAS WAGH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THR ITS SECRETARY AND OTHERS
AND
927 WRIT PETITION NO.11303 OF 2023

SHAIKH TAHSEEN KAUSAR KIYAMODDIN AND ANOTHER

VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS CHIEF PRINCIPAL SECRETARY AND OTHERS

928 WRIT PETITION NO.11304 OF 2023

VIJAY SITARAM JOHARE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
929 WRIT PETITION NO.11305 OF 2023

SHITAL MADHUKAR THAKARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
930 WRIT PETITION NO.11306 OF 2023

ANSARI UZMA ANJUM AEJAZ HUSAIN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
931 WRIT PETITION NO.11307 OF 2023

SHAH AAMIR SAEED
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
932 WRIT PETITION NO.11308 OF 2023

MUDASSIR MERAJ SHAIKH
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
933 WRIT PETITION NO.11309 OF 2023

TADVI SABA FIRDUS ABDUL LATEEF TADVI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

THROUGH ITS CHIEF PRINCIPAL SECRETARY
AND OTHERS
AND
934 WRIT PETITION NO.11310 OF 2023

SHAIKH SAMEER SHAIKH NASIR AND OTHERS
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
935 WRIT PETITION NO.11315 OF 2023

KALYANI PRABHAKARRAO PIMPLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS CHIEF PRINCIPAL SECRETARY
AND OTHERS
AND
936 WRIT PETITION NO.11317 OF 2023

SHAHARUKH KHAN JAHANGIRKHAN AND ANOTHER
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
937 WRIT PETITION NO.11482 OF 2023

MAQUESOOD AHMED KHALEEL AHMED
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
938 WRIT PETITION NO.11516 OF 2023

BHARTI VISHNU MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
939 WRIT PETITION NO.11523 OF 2023

LEENA DHARAMRAJ KAKUSTE
VERSUS
THE STATE OF MAHARASHTRA

THROUGH ITS SECRETARY AND OTHERS
AND
940 WRIT PETITION NO.11533 OF 2023

MAYUR ATMARAM KHAIRNAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
941 WRIT PETITION NO.11540 OF 2023

ROHINI DADASAHEB JADHAV
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
942 WRIT PETITION NO.11544 OF 2023

MOHD IFTEKHAR MOHD QUDDOOS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
943 WRIT PETITION NO.11545 OF 2023

GANESH BABA GAIKHE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS
AND
944 WRIT PETITION NO.11546 OF 2023

NIRAD VINAY JAKATDAR
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
945 WRIT PETITION NO.11572 OF 2023

SUDHAKAR ACHUYTRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA

THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
946 WRIT PETITION NO.11581 OF 2023

GANESH NAMDEV THAKARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
947 CIVIL APPLICATION NO.11402 OF 2023
IN WP/1969/2023

SYED AMER SYED ZAFAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTH
AND
948 CIVIL APPLICATION NO.11426 OF 2023
IN WP/9807/2023

ABDUL KARIM ABDUL MUNAF
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
949 CIVIL APPLICATION NO.11430 OF 2023
IN WP/9544/2022

SHAIKH AZHARUDDIN SHAIKH SHAHABOUDIN
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
950 CIVIL APPLICATION NO.11452 OF 2023
IN WP/4426/2023 WITH WP/4426/2023 WITH CA/11455/2023 IN
WP/4426/2023

WASEEM KHAN BABU KHAN TADVI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND ANOTHER
AND
951 CIVIL APPLICATION NO.11457 OF 2023

SADAF PARVEEN SHAFIQUE KHAN AND ANOTHER
VERSUS
STATE OF MAHARASHTRA
THROUGH EDUCATION AND SPORTS DEPARTMENT
AND OTHERS
AND
2 SHAIKH MAZHARUDDIN SHAIKH FAYAZODDIN
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS
AND
3 WRIT PETITION NO.11583 OF 2023

YOGESH GOPICHAND PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
4 WRIT PETITION NO.11587 OF 2023

SAYALI SHAMRAO SONAWANE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
5 WRIT PETITION NO.11598 OF 2023

ANANTKUMAR HIMMAT PAWAR
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
6 WRIT PETITION NO.11607 OF 2023

ATIYA BEGUM SHAIKH MUSTAFA AND OTHERS
VERSUS
STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND
8 WRIT PETITION NO.11615 OF 2023

ARSHAD KHAN SHAFIULLAH KHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

THROUGH ITS SECRETARY AND OTHERS

...

Mr. S. S. Thombre, Mr. A. B. Kale, Mr. V. S. Panpatte,
Mr. Sachin Deshmukh h/for Mr. Majit Shaikh, Mr. S. B. Ghatol-Patil,
Mr. V. S. Kadam, Mr. T. Y. Sayyed, Mr. S. B. Solanke, Mr. D. B. Dangale,
Mr. B. L. Sagar-Killarikar, Mr. E. S. Murge, Mr. V. U. Pawar,
Mr. A. D. Shinde, Mr. Mr. Shaikh M. A. Jahagirdar, Mr. R. D. Maniyar,
Ms. Khan Sultanaba Bee Rahim, Mr. P. B. Vikhe, Mr. V. G. Deshmukh
h/for Mr. S.S. Tope, Mr. S.R. Sapkal, Mr. A.R. Sayyed,
Mr. Quadri Sayyed Raheel h/for Mr. S.S. Kaji, Mr. D.S. Mali,
Mr. Amol Sawant, Mr. N. L. Chaudhari, Advocate for the Petitioners in
respective Petitions.

Mr. S. K. Tambe, Mr. V. M. Kagne, Mr. S. G. Karlekar, Mr. A. V.
Deshmukh, Mr. P. K. Lakhotiya, AGPs for the Respondents-State

Mr. A.R. Nikam, Advocate for Respondent-Commissioner, Maharashtra
State Council of Examinations

Mr. S. B. Munde, Advocate for Respondent No.7 in WP/11294/2023

Mr. S. R. Dheple, Advocate for Respondent No.7 in WP/11304/2023

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 14th September, 2023

ORDER:

1. All these matters are taken up for disposal considering that the Petitioners have approached this Court with a limited prayer that they may be permitted to resort to registration of self-certification after passing the TAIT for recruitment through the Pavitra Portal. Each of them contends that they have passed TAIT.

2. Considering the limited issue raised before us, we need not advert to the entire averments and pleadings of the respective parties. Suffice it to say that the following aspects require our attention:

a) Teachers Aptitude and Intelligence Test (TAIT) is compulsory for teachers who desire to teach the 1st to 12th Standards.

b) Such TAIT Exam was held in between 22.02.2023 and 03.03.2023, commonly known as the February-2023 TAIT Exam. 216443 candidates have passed the TAIT Exam.

c) A relaxation was given for appearing for the Exam keeping in view that some of the appearing candidates had appeared for qualifying exams and passing of the said exams was necessary to be eligible for appearing for the TAIT.

3. The learned Advocate appearing for the Examination Council seriously objects to the maintainability of the Petitions filed by those Petitioners whose addresses are not in the region amenable to the jurisdiction of the Aurangabad Bench.

4. The learned Advocates representing the Petitioners in the above Petitions strenuously submit that all these Petitioners have an origin in the Districts amenable to the jurisdiction of this Bench. Some

of them are presently working in this area. According to them, even if a fraction of a cause of action is from the region amenable to the jurisdiction of the Aurangabad Bench, the Petitions would be maintainable.

5. The Hon'ble Full Bench of the **Allahabad High Court** has concluded in **Paritosh Kumar Vs. Union of India, 2014 CRI. L.J. 1968** that even if there is a part of the cause of action that falls within the jurisdiction of a particular bench, that bench can have the jurisdiction to entertain the said cause. The Hon'ble Supreme Court in the case of **Shantidevi Alias Shanti Mishra Vs. Union of India, (2020) 10 SCC 766** considered the view of the learned Full Bench of the Allahabad High Court and concluded that a part of the cause of action which could even be on account of the place of residence of the Petitioners or any other factors, would enable the concerned Court to exercise jurisdiction. In view of this legal position, the submissions of Shri Nikam are negated.

6. There is no dispute before us in all these matters that there are three modes/channels for becoming eligible to appear for the TAIT Exam. The **first mode** is, a person who has D.Ed qualification and who passes the Teachers Eligibility Test (TET) conducted by the State of Maharashtra, commonly known as the MH-TET. The **second mode** for

being eligible to appear for the TAIT Exam is, that a candidate has D.Ed qualification and has passed the Central TET (CTET). The **third mode** is that the candidate must be a Graduate and must have B.Ed. qualifications.

7. If teachers desire to teach the students from 1st to 8th standards, the TET Exam has two papers. For those teachers who desire to teach for 9th to 12th Standards, TET is not compulsory. There are cases wherein TET exam results have been cancelled by the Statutory authority on the ground that some of the successful candidates have indulged in a scam. As on date their TET results have been cancelled. By way of an interim relief, this Court has protected such candidates from termination. However, we have not granted restoration of their TET results.

8. We have not permitted such teachers involved in the scam to appear for the TAIT Exam from the channel of the TET qualification, the first channel discussed above. However, those teachers who are alleged to have been involved in the TET scam and who have passed either the C-TET or are Graduates with B.Ed qualification, are not precluded from appearing for the TAIT as there is no provisions cited before us that such candidates should be prohibited for recruitment after passing the TAIT,

9. Rule 2(1)(b-1) of the Maharashtra Employees of Private Schools Rules 1981, defines "Aptitude Test as under:

"Aptitude Test" means the test conducted by the Government or the agency authorised by the Government for appointment of teachers in the aided schools."

10. Rule 6 pertains to the qualification of teachers and non-teaching staff, which reads as under:

6. Qualifications of Teachers and non-teaching staff. - (1) The minimum qualifications for the posts of teachers and the non-teaching staff in the primary schools, secondary schools, higher secondary schools Junior Colleges and Junior Colleges of Education shall be as specified in Schedule "B":

[(2) The Government or the agency authorized by the Government shall conduct the Teachers Eligibility Test for the appointment of teachers or Shikshan Sevaks, for standard I to VIII in the private aided schools, partially aided schools, un-aided schools and schools eligible for grant-in-aid, from time to time.

(2-A) The Government or the agency authorized by the Government shall conduct the Aptitude Test for the appointment of teachers or Shikshan Sevaks, for standard I to VIII in the private aided schools, partially aided schools, un-aided schools and schools eligible for grant-in-aid, from time to time.

(2-B) The Government or the agency authorized by the Government shall conduct the Aptitude Test for the appointments of teachers or Shikshan Sevaks, for standard IX to XII, in private aided schools, partially aided schools, un-

aided schools and schools eligible for grant-in- aid (excluding self- finance schools), from time to time.]

(3) For the appointment of the teachers for standard I to VIII, the candidate who has passed the Eligibility Test shall be eligible to appear for Aptitude Test.

(4) The candidate can appear five times for the Aptitude Test for betterment of marks within the age limit prescribed for the post.

(5) The marks obtained in the Aptitude Test shall be valid up to the age limit prescribed for the post including relaxation in age limit for the candidates belonging to the Specific Category.

(6) The Government shall specify the syllabus and provide the procedure to be followed for conducting the Eligibility Test and Aptitude Test, from time to time."

11. Rule 2(1) (e-1) defines eligibility test as under:

"(e-1) "Teachers Eligibility Test" means the test conducted by the State Government or Central Government or the agency authorized by the State Government or Central Government, for candidates to be eligible to appear for Aptitude Test."

12. The learned AGP and the learned Advocates for the Respondents have vehemently opposed these Petitions on the ground that once the names of the Petitioners have appeared in the TET scam, no matter that they are CTET qualified or are Graduates with B.Ed. qualification, they would not be allowed to appear for the TAIT Exam

or participate in the recruitment process on the basis that they have passed the TAIT Exam.

13. We find that there is no specific/express bar prescribed either under the Rules or under any GR. A candidate who has cleanly passed the CTET or has acquired the qualification of Graduate + B.Ed., which are the two channels for being eligible for the TAIT Exam, involvement in the TET scam would not water down their results in the other two streams, since they have cleanly passed the said examinations and there is no allegation of malpractices.

14. Therefore, we conclude that if there are candidates whose names are involved in the TET scam and their performances have been cancelled and they are neither CTET nor Graduate plus B.Ed. qualified, they would not be permitted to appear for the TAIT exam until they are exonerated and their result of the TET exam is restored, since without passing the TET, these persons cannot be eligible for the TAIT.

15. The Respondents contend that there are certain TET scam candidates who have surreptitiously appeared for the TAIT exams, have passed such exams and are now praying for leave to indulge in registration of self assessment for recruitment through the Pavitra Portal. These issues are not addressed to us in any of these Petitions. These are such issues which are within the domain of the Nodal Body

which is the Maharashtra State Examination Council, Pune and Commissioner of Education. These authorities are duty bound to scrutinize such cases and arrive at independent conclusions.

16. Shri Nikam, the learned Advocate has strenuously contended with regards the issue that is being considered by this Court today in the light of the three channels of eligibility for appearing for the TAIT Exam, that earlier the authorities did not have a mechanism to identify the candidates who had failed in TET and/or had committed a TET scam. Their results were cancelled and were permanently debarred from appearing for the TET exam and, therefore, they surreptitiously appeared for the TAIT examination.

17. We do not wish to deal with this aspect since it would be expanding the scope of these Writ Petitions without there being any cause of action before us. Let the competent authorities scrutinize the cases of all the candidates whom they desire to identify as fraudulent cases. They are at liberty to pass appropriate orders and convey those orders to the concerned candidates who have passed TAIT. The candidates would, thereafter, be at liberty to avail of the legal remedy as may be permissible in law for the redressal of their grievance.

18. Be that as it may, to the extent of these Petitions, those who are in the TET Scam whose results have been cancelled and have been

permanently debarred from appearing for TET exam again, until they are cleared of the charge, such candidates would not be entitled for any relief in these Petitions, unless these candidates have cleared CTET cleanly or have Graduate with B.Ed qualifications. With these qualifications, they would be eligible for the recruitment process after having passed the TAIT. As such, the Petitioners who fall in the second and the third mode/category of eligibility, would be entitled for registration for self certification/assessment through Pavitra Portal and the last date is until midnight of 22nd September, 2023.

19. Insofar as the CTET candidates are concerned, those who have appeared for the exams on or before the date on which the TAIT exams were conducted, they can be considered for the Pavitra portal in view of the policy of the Government, subject to their passing of the CTET. However, those who have appeared for CTET weeks or months after the TAIT Exam was held between February-March, 2023, they cannot be held eligible to appear for TAIT Exams which were held earlier, since the CTET was a requirement for appearing for the TAIT Exam.

20. With the above observations, **these Petitions are disposed off.**

21. Those Petitions pertaining to permanent debarment and cancellation of results are concerned, we are not considering them in this group which is restricted only for self assessment/certification post passing the TAIT. Needless to state, permission to resort to registration of self assessment/certification, would be subject to any other legal impediment, if discovered or noticed by the competent authority.

(Y. G. KHOBRADE, J.) (RAVINDRA V. GHUGE, J.)

JPChavan