

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

915 WRIT PETITION NO.13312 OF 2022

DNYANESHWAR S/O POPAT AUTE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. D. B. Pawar.
AGP for Respondent/State: Mr. S. G. Sangle.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 17th February, 2023.

Per Court:

1. The petitioner was appointed as an untrained teacher vide the order dated 2nd October, 2014. A pay-scale of Rs.5200-20200 grade pay 2000 was also granted to him. His original appointment in the school was on 1st July, 2002. Since the residential schools (Vasti Shalas) got closed down, the Government decided to absorb the teachers. The petitioner was deployed with the Zilla Parishad school at Sasegaonwadi in Taluka Kannad.

2. The petitioner has averred in the petition that after he was absorbed by the State Government, he was given permission to complete the postal D.T.Ed. Course. He completed his first year. However, he failed in the second year in the English subject. If he had

passed in one subject i.e. English, he would have cleared D.T.Ed. A copy of the marks memo – November 2018 is placed on record, which indicates that the petition then failed in D.Ed. (अध्यापक शिक्षण पदविका परीक्षा). The petitioner submits that as the D.T.Ed. course is now closed down, he should be given further opportunity to attempt for passing the examination.

3. This matter was heard in the first session. Earlier, Shri Pawar, the learned advocate for the petitioner did not appear before the Court on 6th January, 2023. Even on the adjourned date 3rd February, 2023, he did not remain preset. Today, we heard him for quite some time and after the dictation in the order commenced, we granted a pass over only to enable the learned AGP to place the Government Resolution dated 24th August, 2018, on record. During the course of the dictation of this order, Shri Pawar, the learned advocate for the petitioner did not remain present in the Court though his name was repeatedly mentioned on the display board.

4. The learned AGP submits that there is a limit to granting attempts to teachers to pass their own qualifying examination. It is an ironical situation that the teachers, who are supposed to impart education and create good students and good citizens, themselves are not able to pass a qualifying examination. He places reliance upon the

Government Resolution dated 24th August, 2018 and submits that the introduction part contains the details about how earlier the qualifying exam had a requisite condition set out. The National Teachers Education Council had issued a notification dated 31st March, 2010. The primary schools teachers were mandated to clear the basic qualification. D.Ed., D.T.Ed. and TET are all covered by the said Government Resolution. In paragraph No.3, it is set out that though earlier opportunities were granted to the primary school teachers to acquire the qualification of D.Ed., D.T.Ed., upto 31st March, 2015, the said period was further extended by 4 years. Despite extending the period to 2019, the petitioner has not passed the examination.

5. We are aware that, recently, the Honourable Supreme Court, dealt with a challenge to the amended Rules introduced by the National Medical Commission in 2019 limiting the attempts to be made by the medical students, to 4. Earlier, there was no limit to the attempts. The Court concluded that 4 attempts were enough and no more were required and that, if the amendment has brought down the number of attempts to 4, the said Rule would not be arbitrary as 4 attempts are enough for the students to pass a professional examination (read *Sachin and others Vs. Union of India and others, Petition for Special Leave to Appeal (C) No.22716 of 2022*).

6. Considering the above, we do not find that the impugned notice dated 30th December, 2022 could be termed as perverse or erroneous. This petition being devoid of merit is, therefore, dismissed.

nga [SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]