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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO. 15228 OF 2023

THE HEAD MASTER KHAWAJA NASIRUDDIN MARATHI PRIMARY
SCHOOL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

Mr.M.C.Syed, Advocate for the Petitioners.
Mr.S.K.Tambe, AGP for the Respondent/State.
Mr.V.M.Vibhute, Advocate for the Respondent/Z.P.Osmanabad

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : DECEMBER 13, 2023

PER COURT :

1. The Petitioner No.2 claims to be an employee with the Minority Institution. He was appointed as a teacher on 16.06.2014. The proposal for approval was forwarded after 4 years on 14.08.2018. The proposal was rejected by order dated 20.10.2018. In WP No.1830/2019, a second proposal forwarded was rejected on 31.10.2023 during the pendency of the Petition, on the ground that the Petitioner does not have the TET qualification. Hence the Petitioner withdrew WP No.1830/2019.

2. The issue as to whether the TET qualification would be mandatory to the teachers teaching in the minority institution, is before the Hon'ble Supreme Court.

3. In several matters, at the Principal Seat at Aurangabad and at Nagpur, the Education Officers have been directed to consider the proposals of the Petitioners for approval or for entering their name in the *Shalarth ID*, notwithstanding that they do not have the TET qualification. A recent order delivered on 02.11.2023 at the Principal Seat in WP No.6894/2023 and 6895/2023 is cited before us. The only difference is that in those 2 cases, the teachers had approval and were praying for inclusion in the *shalarth ID/Pranali*.

4. The learned AGP has vehemently opposed this Petition on the ground that any interim relief granted to the teachers would amount to encouraging the candidates who are appointed by private institutions without requisite qualifications. Subsequently, such institutions will pray for salary grants. The salary grants are available only for those teachers, who have the requisite qualifications.

5. In view of the above, **this Petition is partly allowed.** The communication dated 31.10.2023 is quashed and set aside. We direct that the Education Officer (Primary), Zilla Parishad Osmanabad would reconsider the proposal of the Petitioners without insisting on the TET qualification. The Petitioners shall tender an affidavit undertaking in this Court as well as copies to the Education Officer and the Management, stating therein that if the Hon'ble Supreme Court concludes that the TET qualification is mandatory even to minority institutions and the Petitioners' appointment would be deemed to be illegal, the Petitioners would be willing to suffer the consequences. Let such affidavit/undertaking be filed on or before 05.01.2024 in this Court, with the Education Officer (Primary) and the Management.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)