



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 WRIT PETITION NO.14749 OF 2023

MADHAV ANNARAO DHOTARE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS
AND

928 WRIT PETITION NO.14757 OF 2023

RAGINI MADOLAPPA DHANASHRI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND

933 WRIT PETITION NO.14762 OF 2023

SUMITRA GORAKSHNATH KHARAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND

943 WRIT PETITION NO.14773 OF 2023

SAINATH PANDHARI RAJITWAD
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS
AND

945 WRIT PETITION NO.14775 OF 2023

SHIVPRASAD RAJESHWAR CHEDGULWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND

946 WRIT PETITION NO.14776 OF 2023

SACHIN SOPANRAO DEGAONKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND
948 WRIT PETITION NO.14778 OF 2023

GAJANAN VITTHALRAO WALKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND
952 WRIT PETITION NO.14782 OF 2023

AKASH MAROTRAO GADEKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND
955 WRIT PETITION NO.14785 OF 2023

SWATI ASHOKRAO LUTE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS
AND
956 WRIT PETITION NO.14786 OF 2023

SITARAM RAOSAHEB BHISE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS
AND
957 WRIT PETITION NO.14787 OF 2023

SACHIN RANGNATHRAO WAGH
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS
AND

975 WRIT PETITION NO.14818 OF 2023

RAVI SHANKAR HONSHETTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

Mr.T.M.Venjane, Advocate for the Petitioners.
Mr.P.S.Patil, Mr.S.K.Tambe, Mr.PK.Lakhotiya, Ms.Priya R.Bharaswadkar,
AGPs' for the Respondent/State.

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

DATE : DECEMBER 5, 2023

PER COURT :

1. Some of the Petitioners have not passed their TET examinations and some have passed that examination after the cut off date 31.03.2019. The impugned orders in all these Petitions are as under :-

Sr.No.	Case No.	Name of Parties	Impugned order
920	WP No.14749/2023	Madhav Annarao Dhotre Vs. The State of Maharashtra and others	06.11.2023
928	WP No.14757/2023	Ragini Madolappa Dhanshri Vs. The State of Maharashtra and others	06.11.2023
933	WP No.14762/2023	Sumitra Gorakshnath Kharad and others Vs. The State of Maharashtra and others	29.03.2022
943	WP No.14773/2023	Sainath Pandhari Rajitwad Vs.	06.11.2023

		The State of Maharashtra and others	
945	WP No.14775/2023	Shivprasad Rajeshwar Chedgulwar Vs. The State of Maharashtra and others	06.11.2023
946	WP No.14776/2023	Sachin Sopanrao Degaonkar Vs. The State of Maharashtra and others	06.11.2023
948	WP No.14778/2023	Gajanan Vitthalrao Walke Vs. The State of Maharashtra and others	06.11.2023
952	WP No.14782/2023	Akash Marotrao Gadekar Vs. The State of Maharashtra and others	06.11.2023
955	WP No.14785/2023	Swati Ashokrao Lute Vs. The State of Maharashtra and others	06.11.2023
956	WP No.14786/2023	Sitaram Raosaheb Bhise Vs. The State of Maharashtra and others	26.09.2023
957	WP No.14787/2023	Sachin Rangnathrao Wagh Vs. The State of Maharashtra and others	06.11.2023
975	WP No.14818/2023	Ravi Shankar Honshette Vs. The State of Maharashtra and others	06.11.2023

2. The impugned orders primarily indicate that the proposals for including their names in the Shalarth ID have been rejected for the reasons that they have not cleared the TET examination till the cut off date. In some case, the staffing pattern has not been placed on record by the management, before the **Education Officer / Deputy Director of Education.**

3. Admittedly, the Division Bench of this Court [Coram : S. V. Gangapurwala (as His Lordship then was) and Shrikant D. Kulkarni, JJ.], vide judgment dated 11/06/2021 delivered in **Writ Petition No.4904/2020 (Sagar Gopichand Bahire Vs. State of Maharashtra and others) and a group of petitions**, concluded that, if a candidate does not have the TET qualification prior to 31/03/2019, such candidates cannot be retained in service and the Government will not be liable to pay their salaries. Since the Petitioners desired to approach the Hon'ble Supreme Court, this Court protected the status of the teachers as on date by directing status-quo to be maintained. The matter has travelled to the **Hon'ble Supreme Court in Special Leave to Appeal (Civ.) No.8300/2021 (Priti Ravindra Warghante and others Vs. the State of Maharashtra and others) and a group of petitions**, and the status-quo order has been continued.

4. The learned Advocate for the Petitioners points out the order passed by a co-ordinate Bench of this Court, dated 10/08/2023 in Writ Petition No.9944/2023. Paragraph Nos.1 to 4 of the said order read as under :-

“1. The petitioner is challenging the order passed by the respondent no.4/Education Officer (Secondary), Aurangabad,

refusing to grant permission for including his name in the online portal for disbursement of salary on the ground that he had not passed Teacher Eligibility Test examination (T.E.T.) as per the Government decision dated 13.02.2013.

2. It is common knowledge that the subject pertaining to the T.E.T. qualification is already sub-judice before the Supreme Court which has directed status-quo to be maintained.

3. In the light of above, we quash and set aside the impugned order, direct the respondent no.4 to pass order afresh, which shall not be by resorting to the ground which has been mentioned in the impugned communication.

4. The decision shall be taken as expeditiously as possible and in any case within six weeks. This order shall be subject to the final outcome of the matter before the Supreme Court.”

5. It is apparent that the judgment of this Court, dated 11/06/2021 in Sagar Gopichand Bahire (supra), was not brought to the notice of the Co-ordinate Bench of this Court. Status-quo was ordered and the Hon’ble Supreme Court has continued the said order.

6. Nevertheless, the predicament before us is, as to how far these Petitioners can survive with meager salaries or no salary at all, only on the ground that they are not TET qualified. This Court concluded that TET under the Right of Children to Free and

Compulsory Education Act, 2009 (for short 'the 2009 Act') is mandatory. The Hon'ble Supreme Court would now decide the issue. Until then, all the teachers are protected and the status-quo in their employment is maintained.

7. There are cases, wherein the teachers before us contend that the Management did not pay them at all and they are working without salaries. Unless their names are included in the 'Shalarth Pranali', they are not entitled for salary through the grants may be available.

8. We quite appreciate the difficulties of these Petitioners, who either have to survive without salary or have to survive on a stipend. No doubt, the fault lies with these Petitioners, since they did not pass the TET and have created a problem for themselves. Nevertheless, as has been rightly canvassed by Shri. Venjane, the learned Advocate for the Petitioners that, the TET qualification will be mandatory only for those teachers who have been appointed after the introduction of the 2009 Act, which came into operation on 01/04/2010. The orders of the Hon'ble Supreme Court would be

binding upon all.

9. The learned A.G.P. has strenuously opposed this petition, contending that such petitions are likely to open a pandora's box. These teachers, who are not TET qualified, would be approaching this Court for seeking orders for entering their names in the 'Shalarth Pranali'. They would draw salaries scales as are available through the salary grants extended by the Government, which are available only to those teachers, who have requisite qualification. He raises a dispute of salary grants to the teachers, who do not have requisite qualification. He reminds us of the judgment delivered by this Court in Sagar Gopichand Bahire (supra), wherein this Court has finally concluded that, the teachers without TET need to be terminated. He further submits that, since the Hon'ble Supreme Court had directed status-quo to be maintained, it would not mean that, further service benefits can be granted to the teachers, who do not have the TET qualification.

10. This is a Court of equity and while passing orders, this Court has to balance the equities. If the interest of the teachers are to be protected by passing a conditional or a qualified order, the interest of the State Government, which extends the salary grants also has to

take into account, as the State Government insists that their salary grants should not be utilized for payment of salaries to those teachers, who do not have requisite qualifications.

11. In the light of the peculiar circumstances as noted above, we find that, it would be appropriate to bind the Petitioners with an undertaking that, they would abide by the decision of the Hon'ble Supreme Court, and if it is concluded by the Hon'ble Supreme Court that, they cannot be continued in employment, they would suffer the consequences. By filing such undertaking, the equities would be balanced while passing an order granting them the salaries by allotment of 'Shalarth-ID'. Needless to state that, if the Hon'ble Supreme Court concludes that the TET is mandatory, such teachers will then have to be removed from employment.

12. In view of the above, **these Writ Petition are partly allowed.** The impugned orders are quashed and set aside, with the following directions :-

(a) The Petitioners would tender an undertaking that, they would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to those teachers who do

not have the TET qualification or have cleared the TET after 31/03/2019, or as the case may be, they would abide by the same without raising any cause of action.

(b) Let such affidavit undertaking be filed in this Court within 15 days from today and a copy be tendered to the concerned Education Officer within the same timeline.

(c) Considering the above, the proposals of these Petitioners would be considered for entering their names in the 'Shalarth-ID' on their own merits, save and except, the reason that they are not TET qualified. Needless to state, the proposals would be decided within 30 days after the submissions of the undertakings.

(d) If an adverse order is passed by the Hon'ble Supreme Court by which the teachers are covered by clause (a), the State Government would not recover the salaries already paid to them, since they have worked for those tenures and they have earned their salaries for performing their duties.

(e) In the event, the candidates like the Petitioners are protected by the Hon'ble Supreme Court's conclusions and they are held to be qualified to continue in employment, they would be entitled for

all service benefits like promotions, increments, etc.

(e) Needless to state, in the cases wherein the staffing pattern has not been placed on record, the Management would place the staffing pattern on record within a period of 30 days in order to enable the Deputy Director of Education to pass an appropriate order as regards entering the names of the Petitioners in the Shalarth ID.

(f) The above directions would not apply to such cases, which would be considered for the other deficiencies, if any. It goes without saying that the objection as regards TET would not be raised in their cases and if they are held eligible for including their names in the Shalarth ID, they would also be bound by the above directions and to tender the affidavit undertaking.

(g) In so far as the WP No.14762/2023 is concerned, leave to delete Petitioner No.6 Dipalee Vikramsingh Nikam in whose case, there is no order passed. So also, the impugned order dated 29.03.2022 does not amount to rejecting the proposals of the 5 Petitioners in this Writ petition. Certain deficiencies are to be removed

by the Management and hence, the Deputy Director of Education, Aurangabad has directed the Management to remove the deficiencies.

13. Only to the extent of those Petitioners having not passed the TET prior to the cut off date, the above reproduced directions in paragraph No. 12(a to d) would apply. With regard to the requirement of presentation of the staffing pattern, considering the above directions in paragraph No. 12 (e to g), the Management would place the staffing pattern on record and thereafter the Deputy Director of Education would be at liberty to deal with the said proposal after removal of deficiencies.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

