

Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4376 OF 2021

Nitin s/o Yuvraj Mundhe & Ors	...Petitioners
<i>Versus</i>	
State of Maharashtra & Ors	...Respondents

Mr Arvind G Ambetkar, *for the Petitioners.*
Mr VM Mali, AGP, *for the Respondents No.1 to 3-State.*

CORAM G. S. Patel &
Neela Gokhale, JJ.
DATED: 19th June 2023

PC:-

1. Heard.

2. It is pointed out that there is an order of 27th March 2023 of a Division Bench at the Aurangabad Bench that deals with an identical issue. We reproduce that order:

“1. Leave to correct the names of the Petitioners in the memo of the Writ Petition and the figures on page No.22, in the memo of Civil Application No.1191 of 2023.

2. Prayer clause ‘B’ reads as under:-

“B. By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon’ble Court may kindly

be pleased to direct the respondents to consider the claim of the petitioners for appointment of the Primary/ Assistant/ Graduate Teacher of class VI to VIII for the subject of Math/Science as per their qualification of 12th Science+D.Ed/B.Ed.+TET 2.

3. We have considered the submissions of the learned Senior Advocate for the Petitioners and the learned AGP on behalf of the Respondents / State Authorities.

4. After the submissions of the learned Advocates are considered for quite some time, it is pointed out by the Petitioners that prayer clause (B), which requests the Respondents Authorities to consider the claim of the Petitioners, is yet to be dealt with by the State Authorities. A decision is still not delivered. If the said request is considered by the State, by taking into account the various Government Resolutions and the uniform pattern followed by the various Zilla Parishads, the Petitioners' grievance could be redressed. If the State Authorities are not inclined to accept the request of the Petitioners, a reasoned order could be passed so as to leave open the remedies that may be legally available to the Petitioners for seeking redressal of their grievances.

5. The contention of the Petitioners is that the majority of the Petitioners have acquired graduation qualifications after passing the TET in 2017, which according to the learned AGP is insignificant in view of the judgments dated 28th July, 2021 and 7 October, 2022.

6. The learned AGP submits, on instructions, that a period of 60 days may be granted to take into account the relevant factors while dealing with prayer clause (B). The Petitioners are agreeable.

7. In view of the above, this Writ Petition as well as the

Civil Applications are disposed off with the following observations:-

- a) Respondent No. 1 shall consider the above stated prayer clause 'B' of the Petitioners, in the light of the contentions that these Petitioners have already passed TAIT in 2017.
- b) Respondent No.1 would consider all the relevant Government Resolutions that are applicable and especially the Circular dated 13th October, 2016, the Government Resolution dated 23rd June, 2017, the Government Resolution dated 7th February, 2019 and the Government Circular dated 25th February, 2019 and the two judgments of this Court dated 28th July, 2021 in *Writ Petition No. 2920 of 2020 (Dipak S/o Macchindra Sonawane Vs. The State of Maharashtra and another)* and 7th October, 2022 in *Writ Petition No. 7790 of 2019 (Abhijit Madhavrao Patil and others Vs. The State of Maharashtra and others)*.
- c) Needless to state, we have not expressed any view or opinion as regards the claim of the Petitioners (that as they have passed the TAIT in 2017, they are not required to appear for the said exam again in order to be appointed as trained graduate teachers).
- d) Let a reasoned order be passed within 60 days from today."

3. Prayer (B) of the present Petition at page 14, and reproduced below, is identical to the prayer before the Division Bench at Aurangabad:

“B) By issuing a Writ of Mandamus or any other appropriate writ, order or directions in the like nature, this Hon’ble Court may kindly be pleased to direct the respondents to consider the claim of the petitioners for appointment of the Primary / Assistant / Graduate Teacher of class VI to VIII for the subject of Math / Science as per their qualification of 12th Science+D.Ed./B.Ed.+TET 2.”

4. Accordingly, it is necessary that we make the same order in the present Petition. We therefore pass the following order:

- (a) Respondent No. 1 shall consider the above stated prayer clause ‘B’ of the Petitioners, in the light of the contentions that these Petitioners have already passed TET in 2017.
- (b) Respondent No.1 would consider all the relevant Government Resolutions that are applicable and especially the Circular dated 13th October 2016, the Government Resolution dated 23rd June 2017, the Government Resolution dated 7th February 2019 and the Government Circular dated 25th February 2019 and the two judgments of this Court dated 28th July 2021 in *Writ Petition No. 2920 of 2020 (Dipak S/o Macchindra Sonawane Vs. The State of Maharashtra and another)* and 7th October 2022 in *Writ Petition No. 7790*

of 2019 (Abhijit Madhavrao Patil and others Vs. The State of Maharashtra and others).

- (c) We have not expressed any view or opinion as regards the claim of the Petitioners (that as they have passed the TET in 2017, they are not required to appear for the said exam again in order to be appointed as trained graduate teachers).
- (d) A reasoned order is to be passed within 60 days from today.

5. The Petition is disposed of. No costs.

(Neela Gokhale, J)

(G. S. Patel, J)