

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11811 OF 2023

Suresh Tulshiram Mahale ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

AND

WRIT PETITION NO. 11979 OF 2023

Savita Janardan Gadekar ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary & Ors. ...Respondents

WITH

WRIT PETITION NO. 11987 OF 2023

Sujata Janardan Gadekar ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary & Ors. ...Respondents

WITH

WRIT PETITION NO. 11985 OF 2023

Nilam Dilip Phapale ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary & Ors. ...Respondents

WITH

WRIT PETITION NO. 11986 OF 2023

Pramila Sopan Sutar ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary & Ors. ...Respondents

AND

WRIT PETITION NO. 12031 OF 2023

Sai Satyam Kamlakar ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary,
School Education And Sports Department & Ors. ...Respondents

WITH

WRIT PETITION NO. 12034 OF 2023

Sonali Motiram Nikam ...Petitioner
Versus

The State Of Maharashtra Thr. Its Secretary,
School Education And Sports Department & Ors. ...Respondents

**WITH
WRIT PETITION NO. 12033 OF 2023**

Shridhar Sataba Gurav ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary & Ors. ...Respondents

**WITH
WRIT PETITION NO. 12035 OF 2023**

Priyanka Dinesh Tarte Alias
Priyanka Balasaheb Dange & Ors. ...Petitioners
Versus
The State Of Maharashtra Thr. The Secretary,
Department Of Education And Sports & Anr. ...Respondents

**AND
WRIT PETITION NO. 13126 OF 2023**

Avinash Gulab Gawale ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary,
School Education And Sports Dep. & Ors. ...Respondents

**AND
WRIT PETITION NO. 13242 OF 2023**

Swapnali Suryakant Jadhav ...Petitioner
Versus
The State Of Maharashtra Thr.
The Secretary Education And Sports Dept. & Ors. ...Respondents

**WITH
WRIT PETITION NO. 13407 OF 2023**

Ashlesha Ashok Patil
(name After Marriage Smt Ashlesha Vikram Patil) & Anr....Petitioners
Versus
The State Of Maharashtra Thr. The Secretary,
School Education Department & Ors. ...Respondents

WITH

WRIT PETITION NO. 13406 OF 2023

Supriya Chandrakant Bhopale & Ors. ...Petitioners
Versus
The State Of Maharashtra Thr. Its Secretary,
School Education And Sport Department & Ors. ...Respondents

WITH

WRIT PETITION NO. 13408 OF 2023

Poonam Pramod Deokar ...Petitioner
Versus
The State Of Maharashtra Thr. Its Principal Secretary,
School Education And Sport Department & Ors. ...Respondents

WITH

WRIT PETITION NO. 13409 OF 2023

Anita Raviraj Deshmukha & Anr. ...Petitioners
Versus
The State Of Maharashtra Thr. Its Secretary,
School Education And Sport Department & Ors. ...Respondents

AND

WRIT PETITION NO. 13723 OF 2023

Rajashree Gourihar Vibhute ...Petitioner
Versus
The State Of Maharashtra Thr. Its Secretary,
Education And Sports Department & Ors. ...Respondents

AND

WRIT PETITION NO. 13728 OF 2023

Vaishali Shivdas Pardhi ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 13729 OF 2023

Dipali Balu Koli ...Petitioner
Versus
The State Of Maharashtra Thr.
Its Secretary & Ors. ...Respondents

Mr. Ratan L. Adne a/w Deepak Pote i/b G. A. Ambildhage, for the
Petitioner in WP No.11811 of 2023.

Ms. Sneha S. Bhange, for Petitioner in WP No.13126 of 2023.

Mr. Nilesh Desai, for Petitioner in in WP No.13242 of 2023.

Mr. Sahil Choudhari i/b Mr. Nitin Gaware Patil, for Petitioner in WP No.1308 of 2023.

Mr. Kalpesh Patil, for Petitioner in WP No.13406 of 2023.

Mr. Utkarsh Desai i/b Mr. Prashant Bhavake, for Petitioner in WP No.13407 of 2023.

Mr. Ratan L. Adhe, for Petitioner in WP No.13723 of 2023.

Mr. Ratan L. Adhe a/w Mr. Pankaj Deokar, for Petitioner in WP No.13728 of 2023 & in WP No.13729 of 2023.

Mr. Nitin P. Deshpande a/w Ms. Anjali Shinde, for Respondent / The Maharashtra State Council for Examination (MSCE) in WP No.11811 of 2023.

Mr. N. C. Walimbe, Add. G.P. a/w Ms. Ashwini Purav, AGP for State in WP No.11811 of 2023.

Mr. Ratan L. Adhe i/b Mr. Pankaj Deokar, for Petitioner in WP No.11979 of 2023 aw WP No.11987 of 2023, WP No.11985 of 2023 aw WP No.11986 of 2023.

Mr. Vikas M. Mali, AGP for State in WP No.11979 of 2023 aw WP No.11987 of 2023, WP No.11985 of 2023 aw WP No.11986 of 2023.

Mr Nitin P. Deshpande a/w Ms. Anjali S. Shinde for Respondent The Maharashtra State Council for Examination (MSCE).

Ms. Sneha S. Bhange for Petitioners in WP No.12034 of 2023 & WP No.12031 of 2023.

Mr. Sanjeev B. Deore a/w Ms Suchita J. Pawar a/w Ms. Jidnyasa Choudhari for Petitioner in WP No.12035 of 2023.

Mr Nitin P. Deshpande a/w Ms. Anjali S. Shinde for Respondent The Maharashtra State Council for Examination (MSCE).

Mr.V.M. Mali AGP for State in WP No.12031 of 2023 aw WP No.12034 of 2023, WP No.12033 of 2023 aw WP No.12032 of 2023 & WP No.12035 of 2023.

Mr. S. B. Kalel, AGP for State in WP No.13126 of 2023.

Ms. Shturi D. Vyas, Addl. G.P. a/w Mr. K. S. Thorat AGP for State / Respondent Nos.1 to 3 in WP No.13723 of 2023.

Ms. Shturi D. Vyas, Addl. G.P. a/w Mr. K. S. Thorat AGP for State / Respondent Nos.1, 2 & 4 in WP No.13728 of 2023 & WP No.13729 of 2023.

**CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.**

DATE : NOVEMBER 3, 2023.

P.C.:

1. We have heard learned Counsel for the petitioner and learned Counsel for the respondents.
2. These petitions under Article 226 of the Constitution of India raise common issue of facts and law, as also prays for similar reliefs. The relief as sought by the petitioners is that the petitioners be granted appropriate registration on 'Pavitra Portal' which ought not to be denied to the petitioners on the ground that the petitioners had attempted the TET examination held in the year 2018-2019.
3. At the outset, learned Counsel for the petitioners would submit that the relief as sought for in the present petitions is covered by the orders passed by this Court on a batch of petitions in "**Shaikh Sumaiya Praveen Mohinuddin & Ors. Vs. State of Maharashtra, through its Chief Principal Secretary & Ors.**"¹ Learned Additional Government Pleader as also Mr.Deshpande, learned Counsel appearing for the Maharashtra State Council for Examination, Pune (MSCE) would also not dispute this position. The relevant extract of our order passed on such Writ Petitions reads thus:-

1.

¹ Writ Petition No.11813/2023 & connected matters, Order dt.1/11/2023

2. The case of the petitioners is that the petitioners applied for TET (Teachers Eligibility Test) examination on 16 November, 2019. On 19 January, 2020, hall tickets were issued. The examination was conducted and interim results were declared. On 28 August, 2020, statement of marks was issued under which the petitioners were declared to be successful having passed the TET. On 16 December, 2021, which is almost about a year and four months from the statement of marks being issued to the petitioners, C.R. No. 56 of 2021 was registered by respondent no. 4-Maharashtra State Council of Examinations with a Police Station at Pune, alleging that there were mass malpractices in the TET examinations. On 3 August, 2022, respondent no. 4 published list of TET scam and cancelled the TET performance of the candidates, who had taken up the tests in which the names of the petitioners were included.

3. The petitioners state that in December, 2022, the petitioners appeared for the Central Teachers Eligibility Test (C-TET), which they have successfully passed. Accordingly, C-TET and eligibility certificates were issued. On 31 January, 2023, respondent no. 4 published a notification of online examination for Teachers Aptitude and Intelligence Test (TAIT)-2022 for the recruitment process of Shikshan Sevak/Teacher through Pavitra portal. On 7 February, 2023, respondent no. 4 has issued a notification clarifying that the C-TET qualified candidates are eligible to appear for the TAIT-2022. Accordingly, on 8 February, 2023, the petitioners applied for TAIT-2022 for teachers recruitment on the basis of C-TET having been successfully cleared by them and not relying on the prior TET results, which were cancelled by respondent no. 4 on 3 August, 2022. Hall tickets were issued to the petitioners on 1 March, 2023, as they were found eligible. The petitioners accordingly appeared for TAIT examination. On 24 March, 2023, the results of the TAIT examination were declared. The petitioners secured satisfactory marks in TAIT-2022.

4. It is on the above backdrop, the petitioners were confronted with a notice dated 1 September, 2023, providing for the following:
(Official translation of which is typewritten in Marathi)

*“4. In Petition (Stamp) No. 4434/2023, 1824/2023
filed before the Hon’ble Bombay High Court, Mumbai*

and in Petition No.1953/2023 filed before the Hon'ble Bombay High Court, Mumbai at its Bench at Aurangabad, a decision has been given that the candidates who have been prohibited by the Maharashtra State Examination Council, Pune for their committing misdeeds in the Teachers' Eligibility Examination held in the year 2018 and 2019, cannot appear for the Teachers' Aptitude and Intelligence Test, 2022 and therefore, the said candidates shall not appear for the said Test. They shall further take a note that if they are found to have appeared in the said Test, their candidature shall be cancelled at any stage."

5. The case of the petitioners is that in no manner whatsoever they are taking advantage on the basis of TET undertaken by them of which the performance was cancelled by respondent no. 4 on 3 August, 2022. It is contended that once the petitioners are participating in the process of C-TET eligibility, hence the TET issue ought not to come in their way, merely on the ground that their names were included in the list of candidates who had then appeared for TET as declared on 3 August, 2022. This cannot be a disqualification to the petitioners.

6. It is the petitioner's contention that similar issue as raised by the petitioners has fallen for consideration of the Division Bench of this Court in a batch of petitions filed before the Aurangabad Bench in the case of **Hina Kausar Mohammad Riyaz vs. The State of Maharashtra & Ors.** in Writ Petition No. 8534 of 2023 and other connected matters, of which reference has been made in our order dated 30 October, 2023, wherein we had passed the following order:

"1. Learned Counsel for the petitioners as also Ms. Bhende, learned Additional Government Pleader for the State would submit that the present proceedings would stand covered by the decision rendered by the Division Bench of this Court at Aurangabad Bench on a batch of petitions in 'Hina Kausar Mohammad Riyaz Vs. The State of Maharashtra' (Writ Petition No.8534 of 2023 and other connected matters), as the said decision of the Division Bench is also followed by the coordinate Bench of this Court at Principal Seat in "Vivek Vishnu Raut Vs. The State of Maharashtra" (Writ Petition No.11570 of 2023 and Writ

Petition No.11692 of 2023) by an order dated 11 October 2023.

*2. However, we find that in some of these petitions, although the decision was taken by the Maharashtra State Council of Examination, it was not represented. Today Mr. Deshpande is before us. He appears in some other petitions which are listed today, who fairly states that he would take instructions on the present proceedings as to whether the present proceedings are covered by the said orders. Accordingly, at his request stand over to **1 November 2023**. To be listed on the 'Supplementary Board'.*

3. Learned Advocate for the petitioners shall forward a copy of the petition as also the orders be forwarded by e-mail to learned Advocate Mr. Deshpande."

7. It is also stated by the learned counsel for the petitioners that the petitioners have already applied prior to the cut-off date.

8. Having perused the order as passed by the Division Bench in **Hina Kausar Mohammad Riyaz** (*supra*), it appears to be not in dispute, as also, fairly agreed on behalf of the respondents that the present petitions stand covered by the observations as made by the Court in paragraph 18 of the said order, wherein the Court has observed that the petitioners who fall in the second and the third mode/category of eligibility, namely, those candidates who were eligible to appear for TAIT examination of having possessed C-TET and is a candidate who is Graduate with B.Ed. qualification would be entitled for registration of self-certification/assessment through Pavitra portal.

9. We also note that similar view has been taken by a co-ordinate Bench of this Court at Principal Seat (Justice Sunil B. Shukre, as His Lordship then was and Justice Firdosh P. Pooniwalla) in the case of **Vivek Vishnu Raut vs. The State of Maharashtra & Ors.** (Writ Petition No.11570 of 2023 and Writ Petition No.11692 of 2023) in an order dated 11 October 2023 passed on the said proceedings, wherein the Division Bench while disposing of the petitions held that the petitioners, who were similarly situated, were entitled for appropriate registration on the Pavitra Portal, and accordingly directed respondent no. 4 to treat the applications of all

these petitioners regarding their self-certification made on the Pavitra Portal.

10. In the light of the above discussion, we are of the opinion that the petitioners would also be entitled for the reliefs as granted by this Court in the case of **Hina Kausar Mohammad Riyaz** (*supra*) and **Vivek Vishnu Raut** (*supra*).

11. We, accordingly, dispose of these petitions in terms of the following order:

ORDER

a) The petitioners are entitled for an appropriate registration on the Pavitra Portal. We, accordingly, direct respondent no. 4- Maharashtra State Council of Examinations, Pune to treat the applications of all these petitioners regarding their self-certification made on the Pavitra Portal being received before expiry of the last date of submission of such applications.

b) We further direct respondent no. 4 to deal with those applications in accordance with law.

c) Disposed of in the above terms. No costs.

4. We accordingly dispose of these petitions in terms of paragraph 11 of the aforesaid order passed in the case of **Shaikh Sumaiya Praveen Mohinuddin & Ors. Vs. State of Maharashtra, through its Chief Principal Secretary & Ors.** (*supra*). Ordered accordingly.

5. Disposed of. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]