

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12122 OF 2023

Vaishali Kharat & Anr. ... Petitioners

Versus

The State of Maharashtra, through its Principal
Secretary, School Education Dept. & Anr. ... Respondents

WITH

WRIT PETITION NO. 12424 OF 2023

Sainath Ramesh Punde ... Petitioner

Versus

The State of Maharashtra, through its Principal
Secretary, School Education Dept. & Anr. ... Respondents

WITH

WRIT PETITION NO. 14123 OF 2023

Anjali Yuvraj Yadav (Anjali Shankarrao Pawar) ... Petitioner

Versus

The State of Maharashtra, through its Principal
Secretary, School Education Dept. & Ors. ... Respondents

WITH

WRIT PETITION NO. 14124 OF 2023

Suraj Maruti Borawake & Ors. ... Petitioners

Versus

The State of Maharashtra, through its Principal
Secretary, School Education Dept. & Ors. ... Respondents

Mr. Sahil Choudhari i/b. Mr. Nitin Gaware Patil for the petitioners.
Ms. Kanchan Phatak i/b. Mr. Nitin Deshpande for respondent no.
2/MSCE.

Mr. K.S. Thorat, AGP for the State in WP/12172/2023.

Mr. V.M. Mali, AGP for the State in WP/12424/2023.

Mr. S.B. Kalel, AGP for the State in WP/14123/2023.
Ms. P.N. Diwan, AGP for the State in WP/14124/2023.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.
DATED: 10 November, 2023

P.C.

1. We have heard learned counsel for the petitioners. These four petitions raise common issues of fact and law. The prayers are also for similar reliefs.

Illustratively, we note the prayers as made in Writ Petition No.12122 of 2023

“A) Call for record and proceedings of the case.

B) Issue a writ of mandamus, or any other appropriate writ, order or directions in the nature of writ of mandamus, directing the respondent No. 2 & 3 to grant permission in favor of the petitioners to submit their applications for registration on Pavitra Portal and to participate in the further process of Teacher Aptitude and Intelligence Test, 2022 and for that purpose issue necessary orders.

C) Hold and declare that, Clause/Condition No.4 of Advertisement dated 01^o September 2023 published by the respondent No.3 for conducting the Teacher Aptitude and Intelligence Test, 2022 is illegal, arbitrary and violative of Article 14 of the Constitution of India and hence liable to be quashed and set aside and for that purpose issue necessary orders.

D) Pending hearing and final disposal of this Writ Petition issue appropriate order/directions thereby directing the respondent nos. 2 and 3 to grant permission in favor of the petitioners to submit their applications for registration on Pavitra Portal and to participate in the further process of Teacher Aptitude and Intelligence Test, 2022 and for that purpose issue necessary orders.

[E] Pending hearing and final disposal of this Writ Petition grant an injunction thereby restraining the respondent No. 2 from taking any steps in pursuance to Clause/Condition No. 4 of the Advertisement dated 1st September, 2023 for conducting Teacher Aptitude and Intelligence Test, 2022 being illegal and arbitrary and for that purpose issue necessary orders.

F) Grant ad-interim relief in terms of prayer clauses ‘D’.”

2. After these petitions are heard for sometime, learned counsel for the parties are *ad idem* that the present proceedings would stand covered by our order dated 1 November, 2023 passed in a batch of petitions (Writ Petition No. 11813 of 2023-Shaikh Sumaiya Praveen Mohinuddin & Ors. vs. State of Maharashtra, through its Chief Principal Secretary & Ors. and other petitions). For convenience, we note the order passed in the said petition, which reads thus:

“1. These three petitions filed under Article 226 of the Constitution of India raise common issues of facts and law as also pray for identical reliefs. For convenience, we refer to the prayers as made in Writ Petition No. 11813 of 2023, which reads thus:

“A) The writ petition may kindly be allowed;

B) By issuing writ of Certiorari or any other writ, order or directions in the like nature, this Hon'ble Court may be pleased to quash and set aside clause no. 4 of the impugned notification dated 01/09/2023 thereby restraining the Petitioners to appear for Teachers Aptitude and Intelligence Test 2022 TAIT -2022 teachers recruitment process through pavitra portal may kindly be quash and set aside.

C) By issuing appropriate writ, directions or order in the like nature, the impugned. instructions given in clause No.4 of Notification dated 01/09/2023 (Exh-M) issued by respondent No. 4/5 thereby restraining the petitioners for participating in further selection process of Shikshan Sevak /Teacher through Pavitra Portal in pursuance to Teachers Aptitude and Intelligence Test 2022 (TAIT-2022), may kindly be quashed and set-aside to the extent of petitioners and petitioners be permitted for self certification and to participate in further recruitment process of Shikshan Sevak /Teacher through Pavitra Portal in pursuance to TAIT-2022 and for that purpose issue necessary orders.

D) By issuing writ of Mandamus or any other writ, order or directions in the like nature, this Hon'ble Court may be pleased to direct the respondent no.4 and 5 to allow the petitioners to take part in the process of recruitment pursuant to the notification dated 1.09.2023 (Exh-M) published by respondent no.4 and for that purpose issue necessary orders

E) *This Hon'ble Court be pleased to hold and declare that the petitioners are validly qualified the TAIT2022 examination and therefore, they are entitled to get an appointment as Shikshan Sevaks / Teachers and for that purpose issue necessary orders;*

F) *Pending the hearing and final disposal of the present Petition, this Hon'ble Court may be pleased to stay the effect, execution and implementation of clause no. 4 of the impugned Notification dated 01/09/2023 thereby restraining the Petitioners to appear for TAIT -2022 teachers recruitment process through pavitra portal.*

G) *Pending hearing and final disposal of this writ petition, the impugned instructions issued by respondent No. 4/5 dated 01/09/2023 (Exh-M) thereby restraining the petitioners for participating in further selection process of Shikshan Sevak /Teacher through Pavitra Portal in pursuance to Teachers Aptitude and Intelligence Test 2022, may kindly be stayed,*

H) *Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court may be pleased to direct the respondent no.2 to allow the petitioners to take part in the process of recruitment pursuant to the notification dated 1.09.2023 (Exh-L) published by respondent no.2 and for that purpose issue necessary orders;*

I) *Pending hearing and final disposal of this writ petition, the respondent No. 4/5 may kindly be directed to permit the petitioners for self-certification and permit the petitioners to participate in further teachers recruitment process through Pavitra Portal in pursuance to Teachers Aptitude and Intelligence Test 2022 and for that purpose issue necessary orders.*

J) *Pending hearing and final disposal of this writ petition in further teacher's recruitment process through Pavitra Portal in pursuance to Teachers Aptitude and Intelligence Test 2022 may kindly be stayed.*

K) *Ad interim relief in terms of prayer clause "F" to "J" in favor of the petitioners."*

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.

3. We, accordingly, propose to dispose of the present petitions in terms of our order passed in Writ Petition No. 11813 of 2023 and other petitions, which shall be as per the following order:

ORDER

- a) The petitioners are entitled for an appropriate registration on the Pavitra Portal. We, accordingly, direct respondent no. 2-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. 2 to deal with those applications in accordance with law.
- c) Disposed of in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)