

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13499 OF 2023

Smt. Savita Vyankatrao Deshmukh

...Petitioner

Versus

The Maharashtra State Council Of Examination Thr

Its Commissioner And Ors.

...Respondents

Mr. Ashok B. Tajane, for Petitioner in WP No.13499 of 2023.

Mrs. S. S. Bhende, AGP for State.

Mr. Ashish Gabhale i/b Jay & Co., for Respondent Nos.6 & 7 in WP No.13499 of 2023.

Mr. Nitin P. Deshpande, for Respondent / Maharashtra State Council of Examination (MSCE).

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

DATE : NOVEMBER 1, 2023.

P.C.:

1. This petition is filed praying for the following reliefs:

“a) Rule be issued. Record and proceeding be called for and after examining the legality, validity and propriety thereof, the impugned order dt.14.10.2022 passed by the commissioner, Maharashtra State Council of Examination Pune-01 be quashed and set aside.

b) Pending the hearing and final disposal of the present Writ Petition the operation, implementation, execution and effect of the order dt.14.10.2022 passed by the commissioner, Maharashtra State Council of Examination Pune-01 qua the petitioner be stayed.

c) Interim and ad-interim relief in terms of prayer clause b) above be granted.

d) Any other just and equitable orders be passed in the interest of Justice.”

2. The immediate apprehension of the petitioner is that on the basis of the impugned order dated 14 October 2022, the petitioner is likely to face a coercive action. It may be observed that the Teachers Eligibility Test (TET) conducted in the year 2018 by Respondent No.1 / Maharashtra State Council of Examination, was the subject matter of controversy in several proceedings, inasmuch as it is the contention of Respondent No.1 that there were large malpractices. Respondent No.1 had accordingly notified to debar of 7880 candidates who according to Respondent No.1 were likely to be benefited of the malpractices. However, till date there is no finality in regard to such investigation. The case of the petitioners is that the petitioners in no manner whatsoever were concerned with any alleged malpractices, as also there is no material whatsoever against them.

3. We find much substance in the contentions as urged on behalf of the petitioners. It cannot be that a blanket action is taken merely on the basis of the impugned order dated 14 October 2022, as also, so far no action has been resorted against the petitioners, when malpractices as alleged pertain to the examination held about 4-5 years back after the order having been passed. Respondent No.1 has even not informed to the

employers of the petitioner, Respondent Nos. 6 & 7 nor to the other respondents. If this be the case, there cannot be a coercive action against the petitioners unless due procedure in law is followed.

4. We are accordingly of the opinion that the present proceedings can be conveniently disposed of by observing that in the event any material is available against the petitioners, Respondent No.1 shall communicate such material through Respondent Nos.3 & 4 to Respondent No.6 and in such event if any action against the petitioner is being taken, the same be taken by following the due procedure in law.

5. All contentions of the parties on such issues are expressly kept open. However, till such material is available and communicated, as observed by us above, no coercive action merely on the basis of the order dated 14 October 2022 be taken against the petitioners as also no service benefits including the payment of regular salaries & allowances or any other attributes in the routine of their employment be disturbed.

6. Disposed of in the above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]