

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15856 OF 2022

Shubhangi Ramdas Kanoja

...Petitioner

Versus

The State Of Maharashtra , Ministry Of Tribal  
Development Dept. And Ors.

...Respondents

WITH

WRIT PETITION NO. 15855 OF 2022

Sandip Hari Gavit

...Petitioner

Versus

The State Of Maharashtra , Ministry Of Tribal  
Development Dept. And Ors.

...Respondents

WITH

WRIT PETITION NO. 15857 OF 2022

Mahendra Nanhu Shanwar

...Petitioner

Versus

The State Of Maharashtra , Ministry Of Tribal  
Development Dept. And Ors.

...Respondents

WITH

WRIT PETITION NO. 15858 OF 2022

Dipak Ramesh Bij

...Petitioner

Versus

The State Of Maharashtra, Ministry Of Tribal  
Development Dept. And Ors.

...Respondents

Mr. Ashok B. Tajane, for Petitioner.

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

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) That this Hon'ble Court may be pleased to issue a Writ of Certiorari or any other Writ or direction and thereby call for the records and proceedings in respect of impugned order dated 3/8/2022 (Exhibit N) issued by Respondent No.6 qua the Petitioner;

b) That this Hon'ble Court may after considering legality, validity and propriety of the impugned order dated 3/8/2022 (Exhibit N) issued by Respondent No.6 qua the Petitioner, be pleased to quashed and set aside the same and further direct Respondent No.6. to restore the T.E.T. Eligibility acquired by the Petitioner at the Maharashtra Teachers Eligibility Test 2019 with all consequential benefits;

c) To hold and declared that the Petitioner is validity qualified the Teachers Eligibility Test 2019 and are qualified for the continuation of service as Assistant teacher

d) That this Hon'ble Court may be pleased to direct the Respondent No.3 to consider the proposal dated 06/9/2022 (Exhibit O) submitted in respect of appointment of the Petitioner on a regular pay scale in Respondent No.5-School;

e) that pending the hearing and final disposal of this Writ Petition, the execution, operation, effect and implementation of the impugned order dated 3/8/2022 issued by Respondent No.6 may be stayed qua the Petitioner;

f) that pending the hearing and final disposal of this Writ Petition, the Respondents by themselves, and through their agents, servants, representatives, etc be restrained from taking any coercive steps/action against the Petitioner, who is working as an Assistant Teacher in Respondent No.5-School;

g) that pending the hearing and final disposal of this Writ Petition the Respondents may be restrained from stopping payment of salary to the Petitioner as a full time assistant teacher in the aided Respondent No.5-School;

h) that pending the hearing and final disposal of this Writ Petition, Respondent Nos.3 to 5 may be restrained from terminating the services of the Petitioner on the basis of impugned order dated 3/8/2022 issued by Respondent No.6;

i) that pending the hearing and final disposal of this Writ Petition, Respondents may be directed to continue make the payment of

monthly salary to the Petitioner;

j) interim and ad-interim relief in terms of prayers clause (d) to (h) hereinabove be granted;

k) costs of this Petition be provided throughout to the Petitioners;

l) Such further and other order be passed just, proper and equitable order in the facts and circumstances of this case be passed.”

2. The immediate apprehension of the petitioner is that on the basis of the impugned order dated 3 August 2022, the petitioner is likely to face a coercive action. It may be observed that the Teachers Eligibility Test (TET) conducted in the year 2019-20 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 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 3 August 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.]