



Paragraph No.6 of operative part of this Judgment is corrected vide speaking to minutes order dated 06.05.2024.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.620 OF 2024

Durgesh Bharat Chaudhari,
Age 28 yrs., Occ. Service,
R/o Near Kohinoor Talkies,
Baba Ganpati Road, Nandurbar,
Tq. & Dist. Nandurbar.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra,
Through it's Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
- 2 The Director of Education,
Secondary and Higher Secondary,
Directorate of Education,
Central Building, Camp,
Near Sassoon Hospital,
Pune – 411 001.
- 3 The Deputy Director of Education,
Nashik Division, Nashik.
- 4 The Education Officer (Primary),
Zilla Parishad, Nandurbar,
Tq. & Dist. Nandurbar.
- 5 The President,
West Khandesh Bhagini Seva Mandal,
Datta Mandir Chowk, Vidya Nagari,
Deopur, Dhule, Dist. Dhule.

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6 The Head Master,
Smt. Pyaribai Achalchand Oswal Primary
Vidya Mandir, Station Road,
Nandurbar, Dist. Nandurbar.

... **Respondents**

...

Mr. T.M. Venjane, Advocate for petitioner
Mr. A.M. Phule, AGP for respondent Nos.1 to 3
Mr. P.S. Patil, Advocate for respondent No.4
Mr. V.S. Valse, Advocate for respondent Nos.5 and 6

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

RESERVED ON : 11rd MARCH, 2024

PRONOUNCED ON : 15th MARCH, 2024

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Rule. Rule made returnable forthwith. Heard learned Advocates
for the parties finally, by consent.

2 Present writ petition has been filed for following reliefs :

“(B) This Hon’ble Court by issuing writ of certiorari or any other writ in the like nature, be pleased to quash and set aside the impugned communication dated 18.07.2023 issued by the learned Education Officer (Primary), Zilla Parishad, Nandurbar.

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(C) This Hon'ble Court by issuing writ of mandamus or any other writ in the like nature, may kindly direct the respondents to grant approval to the appointment of the petitioner as a Shikshan Sevak, at the earliest preferably within a period of 15 days from passing order by this Hon'ble Court.

(D) This Hon'ble Court by issuing writ of mandamus or any other writ in the like nature, may kindly direct the respondents to include the name of the petitioner in Shalarth ID and to release his salary, at the earliest preferably within a period of 2 months from passing order by this Hon'ble Court."

3 It is not in dispute that the petitioner came to be appointed by respondent No.5 in respondent No.6 school by order dated 01.09.2021. Respondent No.6 had forwarded proposal for the approval of the services of the petitioner on 12.07.2023 to respondent No.4, however, it came to be rejected by order dated 18.07.2023 stating that there are 15 defects in the said proposal.

4 Heard learned Advocate Mr. T.M. Venjane for the petitioner, learned AGP Mr. A.M. Phule for respondent Nos.1 to 3, learned Advocate Mr. P.S. Patil for respondent No.4 and learned Advocate Mr. V.S. Valse for respondent Nos.5 and 6.

5 The learned Advocate appearing for respondent Nos.5 and 6

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agrees to forward a fresh proposal by removing the defects noted by respondent No.4. He points out that by communication dated 08.01.2024 there was an attempt on the part of respondent No.6 to remove the defects. As the Management is ready to remove the defects i.e. the lacunas those have been left in the document, one opportunity needs to be given.

6 As regards the objection in respect of Teacher Eligibility Test (TET) Examination, this Court has taken note in **The Head Master Khawaja Nasiruddin Marathi Primary School and others vs. The State of Maharashtra and others** in Writ Petition No.15228 of 2023 decided by this Court on 13.12.2023 that whether the TET is compulsory for the minority institution as well as the other educational institutions is at present pending before Hon'ble Apex Court and, therefore, subject to the decision an arrangement will have to be made and, therefore, we pass following order.

ORDER

- 1 The Writ Petition stands partly allowed.
- 2 The impugned communication dated 18.07.2023 by respondent No.4 is hereby quashed and set aside.
- 3 Respondent Nos.5 and 6 are directed to send a fresh proposal

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within a period of one week from today to respondent No.4 by removing the defects.

4 Copy of the undertaking/affidavit of the petitioner or fresh affidavit containing similar contents be given to the Education Officer and the Management stating therein that if the Hon'ble Supreme Court concludes that the TET qualification is mandatory even to the minority institutions and the petitioner's appointment would be deemed to be illegal, petitioner would be willing to suffer the consequences.

5 Such affidavit / copies of affidavit / undertaking or fresh affidavit / undertaking be filed before the Education Officer and the Management, within a period of one week from today.

6 We direct the Education Officer (Primary), Zilla Parishad, Nandurbar to consider the fresh proposal that would be forwarded by respondent Nos.5 and 6 in view of paragraph No.3 of the operative order, on its own merits, save and except, the reason that the petitioner is not TET qualified. The Education Officer to consider the undertaking that would be supplied in view of paragraph Nos.4 and 5 of the operative order. Needless to state that the proposal would be decided within a period of two (2) weeks from today i.e. 06.05.2024.

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Rule is made absolute in the above terms.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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