



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 WRIT PETITION NO.1234 OF 2023

- 1 Aaquib Faraz s/o Aref Shaikh,
Age 30 yrs., Occ. Assistant Teacher in
Gulshan-e-Atfal Urdu Primary School, Udgir,
R/o Azad Nagar, Jalkot Road, Udgir,
Tq. Udgir, Dist. Latur.
- 2 The Head Master,
Gulshan-e-Atfal Urdu Primary School,
Udgir, Tq. Udgir, Dist. Latur.

... Petitioners

... **Versus** ...

- 1 The State of Maharashtra,
School Education and Sports Department,
Mantralaya, Mumbai.
Through it's Secretary.
- 2 The Director of Education (Primary),
Maharashtra State, Pune.
- 3 Deputy Director of Education,
Latur Division, Latur.
- 3 The Education Officer (Primary),
Zilla Parishad, Latur.

... Respondents

...

Mr. Syed Masood Chand, Advocate for petitioners

Mr. P.S. Patil, AGP for respondent Nos.1 to 3

Respondent No.4 - served

...

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

DATE : 20th MARCH, 2024

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

1 Heard.

2 Petitioner No.1 claims to be an employee with the Minority Institution. He came to be appointed as a Shikshan Sevak on 29.07.2015. On 05.09.2022 petitioner No.2 has forwarded the fresh proposal to respondent No.4, for granting approval to the said post of Shikshan Sevak, on aided basis. The said proposal was rejected by communication dated 21.10.2022 on the ground that the petitioner No.1 does not have the Teacher Eligibility Test (TET) qualification.

3 The issue, as to whether the TET qualification would be mandatory to the teachers in the minority institutions, is pending before the Hon'ble Supreme Court.

4 In several matters, at the Principal Seat, at Aurangabad Bench and at Nagpur Bench, the Education Officers have been directed to consider the proposals of the petitioners therein for approval to the post or for

entering their name in the Shalarth ID, notwithstanding that they do not have the TET qualification. A recent order delivered on 02.11.2023 at the Principal Seat in Writ Petition No.6894 of 2023 and 6895 of 2023 is cited before us. The only difference is that in those two cases, the teachers had approval and were praying for inclusion of their names in Shalarth ID/Pranali.

5 The learned AGP has vehemently opposed the petition on the ground that any relief granted to petitioner No.1 teacher would amount to encouraging the candidates who are appointed by private institutions without requisite qualifications. Subsequently, such institutions will pray for salary grants. The salary grants are available only for those teachers, who have the requisite qualifications.

6 In view of the above, the following order is passed.

ORDER

- i) The Writ Petition stands partly allowed.
- ii) The communication dated 21.10.2022 is quashed and set aside.
- iii) We direct that the Education Officer (Primary), Zilla Parishad, Latur would reconsider the proposal of petitioner No.1 without insisting on

the TET qualification.

iv) Petitioner No.1 shall tender an affidavit / undertaking in this Court as well as copies of the same to the Education Officer and the Management, stating therein that if the Hon'ble Supreme Court concludes that the TET examination is mandatory even to the teachers in minority institutions and the appointment of petitioner No.1 would be deemed to be illegal, petitioner No.1 would be willing to suffer the consequences.

v) Let such affidavit / undertaking be filed within fifteen days from today in this Court and a copy be tendered to the concerned Education Officer (Primary) and the Management within the same timeline.

vi) Writ Petition, therefore, stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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