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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3494 OF 2024

FARHAT BEGUM D/O MOHAMMAD YOUNUS QURESHI
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND
OTHERS

...
Advocate for the Petitioner : Mr. Maniyar Irfan D.
AGP for Respondents: Mr. N.S. Tekale.
Advocate for Respondent No.3 : Mr. Santosh Baburao Pulkundwar
Advocate for Respondent Nos. 5 and 6 : Mr. Parmeshwar Bhaskar
Gonare.

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

DATE : 5TH APRIL, 2024.

P.C. :-

1. Present petition has been filed, challenging the order passed by respondent No.3 on 21.12.2023 for refusal to grant approval and other consequential prayers.
2. Learned AGP waives notice for respondent Nos. 1 and 2, Mr. Pulkundwar, Advocate waives notice for respondent Nos. 3 and 4 and Mr. P. B. Gonare, waives notice for respondent Nos. 5 and 6.
3. It is submitted on behalf of respondent Nos. 5 and 6 that after the impugned order was passed, the management has removed the defects in respect of submitting documents, which were stated to be shortcomings in the impugned order. Learned advocate for respondent Nos. 3 and 4 accepts that certain documents might have been produced

subsequently by respondent Nos. 5 and 6 and in that circumstances, reconsideration of the proposal is possible. The rejection appears to be on the basis of two reasons. First is that the petitioner has not acquired TET qualification prior to her appointment, in view of the G.R. dated 13.2.2013, approval cannot be granted and second ground of rejection is shortcomings of the documents.

4. As regards the second ground of rejection is concerned, in view of the aforesaid statement that the defects can be rectified, whether complied with or not by the respondent will have to be seen and then and reconsideration of the decision will be possible. As regards the first objection in respect of TET, the said point is sub-judice before the Honourable Apex Court.

5. We are, therefore, of the considered opinion that this is a fit case to exercise our jurisdiction under Article 226 of the Constitution of India and direct the Education Officer to grant conditional approval to the appointment of the petitioner considering the position, as on the date of her appointment, subject to condition that she furnishes an undertaking that in case the Supreme Court decides mandating requirement of TET qualification, the petitioner shall not claim any equities and shall be bound by such decision in the matter of her appointment. We, therefore, proceed to pass the following order :-

ORDER

- [I] Writ petition is partly allowed;
- [ii] The Impugned order dated 21.12.2023 passed by the Respondent No.3 - Education Officer, Primary, Zilla Parishad, Nanded, is hereby quashed and set aside. Respondent No.2

shall grant conditional approval to the appointment of the petitioner as Assistant Teacher and include petitioner's name in Shalarth Pranali subject to conditions as under :-

[a] The petitioner shall tender an undertaking that, she would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to those teachers who do not have the TET qualification or have cleared the TET after 31.03.2019, or as the case may be, she would abide by the same without raising any cause of action.

[b] Let such affidavit undertaking be filed in this Court within 15 days from today and a copy be tendered to the concerned Education Officer within the same timeline.

[c] If an adverse order is passed by the Hon'ble Supreme Court by which the teachers are covered by clause (a), the State Government would not recover the salaries already paid/earned by performing duties.

[d] In the event, the candidates like the Petitioner are protected by the Hon'ble Supreme Court's conclusions and she is held to be qualified to continue in employment, then only she would be entitled for all service benefits like promotions, increments, etc.

[e] Respondent No.2 is at liberty to verify whether all the defects as referred in the impugned order are removed or not before issuing such conditional approval.

[iii] Writ petition is disposed of in above terms.

[S.G. CHAPALGAONKAR, J.] [SMT. VIBHA KANKANWADI, J.]