



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

994 WRIT PETITION NO. 2387 OF 2024

- 1) Kailas s/o Yamaji Kharat
- 2) Prabhu s/o Narayan Bhujbal
- 3) Smt. Mandakini Bhaurao Naval ... **Petitioners**

VERSUS

- 1) The State of Maharashtra
and others. ... **Respondents**

...

Advocate for Petitioner : Mr. Thombre S.S.
A.G.P for Respondent Nos. 1 to 3 : Smt. S.S. Joshi
Advocae for Respondent No. 4 : Mr. P.R. Nangare
Advocate for Respondent nos. 5 & 6 : Mr. A.D. Raut

CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : **07.08.2024**

PER COURT :

Heard.

2. The petitioners have challenged the communication issued by respondent No. 4-Education officef (Primary), Zilla Parishad, Chhatrapati Sambhajinagar, dated 12.12.2023, thereby indicating objections in respect of the proposal to include the name of the petitioners in the Online Portal for disbursement of salary i. e. Shalarth Pranali, on the ground that certificate of passing Teachers Eligibility Test examination (TET) as per the Government Resolution dated 13.02.2013 are not annexed/cleared.

3. The learned advocate for the petitioners has relied on the decision in Writ Petition No.11121 of 2021 (Dattatray Devidas Sonwale and another vs. The State of Maharashtra through its Principal Secretary and others) and Writ Petition No.9944 of 2023 (Ankush Kautik Gonge vs. The State of Maharashtra through its Principal Secretary and another) in which reference

has been made to the decision of this Bench in **Writ Petition No.4904 of 2020 (Sagar Gopichand Bahire vs. State of Maharashtra and others)** dated **11.06.2021**, wherein it has been held that if a candidate has not acquired TET qualification prior to 31.03.2019, then such candidate cannot be retained in service and the Government will not be liable to pay the salaries. The said matter is now pending before the Hon'ble Supreme Court in SLP (Civil) No. 8300 of 2021 and the Hon'ble Supreme Court has directed *status quo* to be maintained.

4. In the case of similarly situated person this Court has taken a stand in view of the aforesaid situation that when the petitioners are working, then they should get their salaries and for that purpose their name should be included in the Shalarth Pranali. We adopt the same view and, therefore, we partly allow the petition, thereby quashing the communication dated 12.12.2023, with following directions :

[a] The petitioners would tender an undertaking that they would abide by the decision to be taken by the Supreme Court, and if the verdict is adverse to their interest, they would abide by the same without raising any dispute

[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] Considering the above, the proposals of the petitioners would be considered for entering their name in the 'Shalarth-ID' on its own merits, save and except, the reason that they are not TET qualified. Needless to state, the proposals would be decided within 30 days after the submissions of the undertaking.

[d] 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 to the petitioners since they have earned their salaries by performing the duties.

[e] In the event the candidates like the petitioners are protected by the Supreme Court's conclusions and they are held to be qualified to continue in employment, the petitioners would be entitled for all service benefits like promotions, increments, etc.

5. Writ Petition, therefore, stands disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-