



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2042 OF 2024**

ANAND CHANDRAKANT MEGHE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
AND OTHERS**

...

Mr. Amol Gandhi h/f Mrs. Megha B. Vaishnav, Advocate for the
Petitioner.

Mr. N. S. Tekale, AGP for Respondents-State.

...

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

DATED : 27th FEBRUARY, 2024.

P.C.

1. In view of our order dated 21.02.2024 respondent no.2 is present before this Court and he has filed affidavit as directed by this Court. We do not want to repeat the contents of our order dated 21.02.2024 regarding background for giving those directions to respondent no.2 to remain present and file affidavit. Suffice it to say that we had taken Exhibit-A i.e. communication dated 21.02.2024 by respondent no.2 as misleading communication and we had given him a chance to explain before we could term it as fraudulent communication.

2. In his affidavit he has given chronology of events under which the file was before him. Suffice it to say that according to him the management or the petitioner had not submitted any documents about passing of TET by the petitioner and, therefore, he states that he concluded that petitioner's name cannot be included in the Shalarth-ID. His affidavit is silent on the point that he has passed written order on or before 21.02.2024. We have perused the original file of the petitioner and we have confirmed that no written order was passed by respondent no.2 before 21.02.2024. It was only the office noting which was produced before us also on the earlier date. Without there being a written order, it should not have been communicated by respondent

no.2 that he has taken that decision. He refers to the oral denial by the Authorities which is stated by the petitioner in his petition. The law does not contemplate any oral order by respondent no.2 and, therefore, definitely respondent no.2 ought to have taken utmost care while communicating to the Assistant Government Pleader appearing in the matter that such a decision has been taken by him.

3. Now respondent no.2 tenders unconditional apology. Such apology is stated by him in his affidavit in paragraph no.11 also. We have taken this a serious view for the simple reason that respondent no.2 is Deputy Director Education, Nasik Division, Nasik as on today. The officer of his rank is expected to follow the procedure and when it comes to taking decision on any proposal utmost care is expected from him. However, taking a lenient view, his apology can be accepted. However, need arises to impose cost upon him for making such communication in the Writ jurisdiction of this Court.

4. We have heard the learned Advocate for the petitioner as well as learned AGP.

5. The only ground on which the proposal to include the name of the petitioner in Shalarth-ID has been rejected is that he has not passed TET. We are taking note of various orders passed by this Court and the fact that the question whether TET can be made compulsory or not is presently pending before the Hon'ble Supreme Court of India and, therefore, till the decision is taken by the Apex court, the petitioner cannot be kept without salary. We also say that in many matters this Court has made interim arrangement. We may refer to the Writ Petition No.13522/2023 decided by this Court on 31.10.2023. There is no hurdle for respondent no.2 and equivalent officer dealing with such proposals to follow the direction given by this Court whenever such issue comes before them. We adopt the same course.

6. For the above said reasons, following order is passed:

ORDER

- a. Writ Petition stands allowed.
- b. The communication Exhibit-A dated 21.02.2024 though it is without reason, but with findings that the proposal in respect of the petitioner to include his name in Shalarth-ID has been rejected stands set aside.
- c. The directions are given to respondent no.2 to consider the proposal and if there is no legal impediment, he would proceed to decide the same within a period of 15 days from today.
- d. In the meanwhile, the petitioner shall tender an affidavit undertaking to respondent no.2 within a period of 4 days from today as well as copy to the employer stating therein that he would not claim any service benefits/promotions/re-fixation of salary/increments, etc., till the Hon'ble Supreme Court of India decides the issue as to whether TET qualification is mandatory to each teacher. If such an affidavit undertaking is filed, then his proposal may not be rejected for the reason that he has not passed TEX exam.
- e. The unconditional apology tendered by respondent no.2 is hereby accepted subject to condition that he should deposit amount of Rs.50,000/- (Rs. Fifty Thousand only) to the High Court Bar Library within a period of 15 days from today.
- f. Writ Petition is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE