



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

932 WRIT PETITION NO. 2507 OF 2024

TRUPTI SUNIL KALE

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS

...

Mr. Abhijit G. Choudhari Advocate for Petitioner.

Mr. S.K. Shirse A.G.P. for Resp. Nos. 1 to 3.

...

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

DATE : 5th MARCH 2024

ORDER :

1. Heard.

2. The petitioner has challenged the communication issued by respondent No.3 dated 9th May 2023 to respondent No.2 and respondent No.5, thereby indicating objections in the proposal to include the name of the petitioner in the On-line Portal for disbursement of salary i.e. **Shalarth Pranali**, on the ground that the petitioner has not passed Teachers Eligibility Test Examination (TET) within the stipulated time.

3. The learned Advocate for the petitioners has relied on the *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 11th June 2021, wherein, it has been held that if a candidate has not acquired TET qualification prior to 31st March 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 persons 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 Writ Petition, thereby quashing the communication dated 9th May 2023, with following directions:-

[a] The petitioner would 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 31st March 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] Considering the above, the proposal of the petitioner would be considered for entering her name in the 'Shalarth-ID' on its own merits, save and except, the reason that she is not TET qualified. Needless to state, the proposal 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 petitioner, since she has worked for those tenures and she has earned her salaries for performing her duties.

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

5. Writ Petition stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE