



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 WRIT PETITION NO.3414 OF 2024

- 1 Taha Shikshan Prasarak Mandal,
Through it's Secretary,
Vikharoddin Sahiroddin Shaikh,
Age 62 yrs., Occ. Retired,
R/o Bada Bangla, Kannad,
Tq. Kannad, Dist. Aurangabad.
- 2 Ayesha Bano d/o Mohammad Khan Pathan,
Age 36 yrs., Occ. Service,
R/o House No.295, Kachehri Road,
Near Pattal Masjid, Malipura,
Yeola, Tq. Yeola, Dist. Nashik.
Presently R/o Bada Bangla, Kannad,
Tq. Kannad, Dist. Aurangabad.
- 3 Khan Ateef s/o Khan Anees,
Age 29 yrs., Occ. Service,
R/o Gaar ka Bangla, Kannad,
Tq. Kannad, Dist. Aurangabad.

... Petitioners

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
- 2 The Deputy Director of Education,
Aurangabad Division, Aurangabad.
- 3 The Education Officer (Primary),
Zilla Parishad, Aurangabad.

... Respondents

...

Mr. M.N. Shaikh, Advocate h/f Mr. S.S. Kazi, Advocate for petitioners

Mr. P.S. Patil, AGP for respondent Nos.1 and 2

Mr. V.C. Patil, Advocate h/f Mr. U.B. Bondar, Advocate for respondent No.3

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

DATE : 02nd APRIL, 2024

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

1 Heard.

2 Petitioner Nos.2 and 3 claims to be the employees with the Minority Institution. They came to be appointed as Assistant Teacher on 06.01.2014. On 17.08.2023 Head Master of Indira Gandhi Urdu Primary School, Kannad has forwarded the proposal to respondent No.3, for including the names of petitioner Nos.2 and 3 in the Online Portal for disbursement of salary i.e. **Shalarth Pranali / ID**. The said proposal was rejected by order dated 31.08.2023 on the ground that the petitioner Nos.2 and 3 do 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 names 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.

5 The learned AGP has vehemently opposed the petition on the ground that any relief granted to petitioner Nos.2 and 3 teachers 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 31.08.2023 is quashed and set aside.
- iii) We direct that the Education Officer (Primary), Zilla Parishad, Aurangabad would reconsider the proposal of petitioner Nos.2 and 3 for entering their names in the '**Shalarth Pranali / ID**', without insisting on the TET qualification.
- iv) Petitioner Nos.2 and 3 shall tender affidavits / undertakings 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 Nos.2 and 3 would be deemed to be illegal, petitioner Nos.2 and 3 would be willing to suffer the consequences.
- v) Let such affidavits / undertakings 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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