



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 WRIT PETITION NO.3330 OF 2024

- 1 Shaikh Aref Rauf,
Age 33 yrs., Occ. Service as Assistant Teacher,
R/o Shivaji Nagar, Nilanga,
Tq. Nilanga, Dist. Latur.
- 2 Mulla Muzammil Musa,
Age 30 yrs., Occ. Service as Assistant Teacher,
R/o Musa Mulla, At Post Halgara,
Tq. Nilanga, Dist. Latur.

... Petitioners

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
Education Department,
Mantralaya, Mumbai – 32.
- 2 The Deputy Director of Education,
Latur Division, Latur.
- 3 The Education Officer (Primary),
Zilla Parishad, Latur.
- 4 Rahimaniya Talimi Society,
Nilanga, Tq. Nilanga, Dist. Latur.
Through it's President/Secretary.
- 5 Gulshan-E-Aftal Urdu School,
Kharosa, Tq. Ausa, Dist. Latur.
Through it's Head Master.

... Respondents

...

Mr. V.S. Panpatte, Advocate for petitioners

Dr. Kalpalata B. Patil Bharaswadkar, AGP for respondent Nos.1 and 2

Mr. U.B. Bondar, Advocate for respondent No.3

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

DATE : 07th MAY, 2024

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

1 Heard.

2 Petitioner Nos.1 and 2 claims to be the employees with the Minority Institution. They came to be appointed as Shikshan Sevak on 01.07.2014. A proposal for getting approval to their appointment was forwarded to respondent No.3 – Education Officer and after scrutinizing the proposal respondent No.3 granted approval in favour of the petitioners vide order dated 28.07.2016. On 08.12.2023 Headmaster of Gulshan-E-Atfal Urdu Primary School, Kharosa, Tq. Ausa, Dist. Latur has forwarded the proposal to respondent No.3 for including the names of petitioners in the Online Portal for disbursement of salary i.e. **Shalarth Pranali/ID**. The said proposal was rejected by order dated 13.12.2023 on the ground that the petitioners 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/Pranali.

5 The learned AGP has vehemently opposed the petition on the ground that any relief granted to petitioners 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 13.12.2023 by respondent No.3 – Education Officer (Primary), Zilla Parishad, Latur is quashed and set aside.
- iii) We direct that respondent No.2 – Deputy Director of Education, Latur Division, Latur would reconsider the proposal of the petitioners without insisting on the TET qualification for entering their names in the Shalarth-ID and releasing their salary.
- iv) Petitioners shall tender an affidavit / undertaking 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 the petitioners would be deemed to be illegal, the petitioners would be willing to suffer the consequences.
- v) Let such affidavit / undertaking be filed within fifteen days from today in this Court and a copy be tendered to the concerned Education Officer 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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