



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3441 OF 2024

Sujit Digambarrao Mugutkar

VERSUS

The State Of Maharashtra Through
Its Principal Secretary And Others

...

Mr. T. M. Venjane, Advocate for the Petitioner

Ms. Neha Kamble, AGP for Respondents/State

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : MAY 08, 2024

PER COURT :

1. Office objections as regards Page Nos. 26, 27 and 29, stand overruled.

2. A common order has been passed which is impugned in this Petition. The other Petitioner has preferred Writ Petition No. 2471/2024 (Dattatraya Kishanrao Miralwar vs. The State of Maharashtra and Others). Notice has been issued in the said Petition and it is directed that until further orders, the services of the said Petitioner would be protected and the management would continue to pay the salary.

3. It is undisputed that the Petitioner's appointment is prior to the introduction of the Pavitra

Portal System which was a result of the judgment of this Court in Suo Moto PIL No. 2/2022. The impugned order passed by the Education Officer makes a mention that the appointment of the Petitioner – Sujit Digambarrao Mugutkar is prior to the introduction of the Pavitra Portal System and the other co-employee Shri. Dattatraya Kishanrao Miralwar was appointed after the introduction of Pavitra Portal System. It is undisputed that the present Petitioner Sujit Mugutkar has received permanent approval to his appointment order.

4. The only issue, therefore, that remains to be considered is that the Petitioner – Sujit has not passed the TET exam. However, his name is not involved in the TET exam result scam.

5. In similar circumstances, this Court has passed several orders concluding that as the matter is before the Hon'ble the Supreme Court on the point whether the TET would be compulsory for candidates to be acquired, before the cut-off date who are appointed after the introduction of the RTE Act, those teachers whose appointments are approved, have been granted

benefits of Pavitra Portal System despite not passing TET, but with the caveat that such candidate should not be involved in the TET exam result scam. Such benefits of the Shalarth ID have been made available to said candidates on the following conditions:

(a) The Petitioners would tender an undertaking that, they 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 31/03/2019, or as the case may be, they 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 proposals of the Petitioners would be considered for entering their names in the 'Shalarth-ID' on their 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 undertakings.

(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 them, since they have worked for those tenures and they have earned their salaries for performing their

duties.

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

6. The learned Advocate for the Petitioner/Sujit submits that he would tender the affidavit/undertaking and abide by the above stated conditions. Let such affidavit/undertaking be tendered with the employer as well as with the Education Officer, within 30 days from today. On such conditions, the name of the Petitioner would be entered into the Shalarth ID for salary to be paid from the grants as may be available subject to the affidavit/undertaking which would bind the Petitioner.

7. In view of the above, **this Writ Petition is disposed off.**

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)