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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3446 OF 2024
(Sushil Anil Chavan Vs. The State of Maharashtra and Others)
WITH
WRIT PETITION NO.3452 OF 2024
(Navin Shamrao Rathod Vs. The State of Maharashtra and Others)

Mr.T.M.Venjane, Advocate for the Petitioners.
Mr.A.B.Girase, Govt.Pleader a/w Mr.R.K.Ingole, Mr.V.M.Kagne, AGPs'
for Respondent/State.

**(CORAM : RAVINDRA V. GHUGE AND
R.M. JOSHI, JJ.)**

DATE : APRIL 4, 2024

PER COURT :

1. The Petitioners are before us since the proposals sent by their employers to the Deputy Director, Education, Latur Division Latur, who has the jurisdiction to deal with the issue of entering the name of a candidate in the *shalarth pranali*, seeking approval to their transfer from the unaided establishment to the 20% grand-in-aid establishment, have been dismissed. The impugned order rejects their proposals only on the ground that they are not TET qualified.

2. This Court has passed several orders in plentiful cases granting relief to the teachers who have not passed their TET. An

extensive order was passed by this Court on **07.09.2023 in WP No.11121/2023 (Dattatraya Devidas Sonwale and another Vs. The State of Maharashtra, Through its Principal Secretary and Others).**

3. Today, the learned Govt. Pleader brings to our notice that it was never brought to the notice of this Court that several of such Petitioners, have been regularized in employment on “no grant basis”. Though this Court has passed the order running in 7 pages dated 07.09.2023, it is obvious that it was not brought to the notice of this Court that the Petitioners have a permanent approval on “no grant basis”. Though several such orders are passed at the Principal Seat and even at the Nagpur Bench, this fact was not brought to the notice of the Court.

4. We find that in several matters, we were guided only by the fact that the Division Bench of this Court had delivered a **judgment dated 11.06.2021 in WP No.4904/2020 (Sagar Gopichand Bahire Vs. The State of Maharashtra and Others)** wherein this Court concluded that teachers without TET qualification prior to 31.03.2019, cannot be continued in employment and all of them have to be terminated. This Court had

stayed the operation of the said order for some time to enable the Petitioners to approach the Hon'ble Supreme Court which directed status-quo to be maintained in **Special Leave to Appeal No.8300/2021 (Priti Ravindra Warghante Vs. The State of Maharashtra and Others)**.

5. In view of the above, the learned Govt.Pleader calls upon this Court to deal with the issue as to whether such relief could be granted to those teachers who have not passed their TET at all and when such salary grants, keep on increasing @ 20% per year taking the school to the stage of 100% salary grants. He submits that this is not a bounty and can not be granted as a reward to a teacher for having not passed the TET examination.

6. In view of the above, issue notice to the Respondents, returnable on 22.04.2024. The learned GP / AGP waives service of notice on behalf of all the Respondents. Let the affidavit in reply be filed at least one week prior to the returnable date.

7. All office objections to be removed on or before 15/04/2024, failing which, the Petition shall stand dismissed without reference to the Court on 16.04.2024.

8. The author of the impugned order Dr.Ganpat More, Deputy Director (Education), Latur Division Latur is present before the Court for the reason that we had come across several identical orders rejecting the proposals only on the ground that the candidates have not passed the TET. We desired to gather as to why the said Officer was repeatedly passing such orders.

9. The learned Govt.Pleader along with Mr.Ingole, have addressed us. Affidavit dated 04.04.2024 is entered by Dr.More. While tendering an apology for passing identical orders repeatedly, he has raised an issue, which needs consideration. He submits that though this Court has set aside the orders in which proposals have been rejected on the ground of absence of TET, he has no guidelines to pass any order ignoring lack of TET qualification. There is no direction from his Department, directing him that he should ignore the lack of TET qualification until the Hon'ble Supreme Court decides the pending proceedings.

10. Our attention is drawn to the directions issued in the order dated 07.09.2023 (supra), wherein we have recorded in paragraph No.10 as under :-

“(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.”

11. He, therefore submits that whenever such an order is passed, the candidates have to file their affidavits and thereafter, he has been entertaining their proposals without referring to the lack of TET qualification, while deciding them afresh. We find that the said Officer has made out a ground on which the learned AGP desires to file an affidavit in reply since this issue, especially in relation to salary grants in aid being disbursed to the candidates (TET), was never a subject which was addressed to this Court any time in the past.

12. In view of the above, we accept his apology and we permit the learned AGP to file an affidavit to raise a ground on the said issue. Nevertheless, all these teachers who are before us, are granted permanent approval on 'no grant basis' and, therefore, their employers are duty bound to pay their regular salaries.

13. On the returnable date, if time permits, we would take up these matters for final hearing at admission stage.

(R.M.JOSHI, J.)

(RAVINDRA V. GHUGE, J.)