



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO.4408 OF 2024

Shaikh Uzma Nuzat Shaikh Nooer,
Age 34 yrs., Occ. Service as an Assistant Teacher,
R/o Near Dargah Masjid, Dargah Mohalla,
Tq. Basmat, Dist. Hingoli.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
School and Education Department,
Mantralaya, Mumbai.
- 2 The Education Officer (Primary),
Zilla Parishad, Hingoli,
Tq. & Dist. Hingoli.
- 3 The Deputy Director of Education,
Chhatrapati Sambhaji Nagar,
Near Bhadkal Gate,
Tq. & Dist. Chhatrapati Sambhaji Nagar.
- 4 Khamar Baig Urdu Primary School,
Near Jama Masjid, Gadi Mohalla,
Tq. Basmat, Dist. Hingoli.
Through it's Head Master.
- 5 The President,
Aftaab Education Society,
having registered address at
H. No.H 466, Near Jama Masjid,
Gadi Mohalla, Tq. Basmat,
Dist. Hingoli.

... Respondents

...

Mr. S.R. Kolhare, Advocate for petitioner

Dr. Kalpalata B. Patil Bharaswadkar, AGP for respondent Nos.1 and 3

Mr. H.P. Kshirsagar, Advocate for respondent No.2

...

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

DATE : 26th APRIL, 2024

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

1 Heard.

2 Petitioner claims to be the employee with the Minority Institution. She came to be appointed as Assistant Teacher on 17.06.2013. On 23.06.2013 respondent No.4 has forwarded the proposal of the petitioner for approval and after scrutinizing the proposal respondent No.2 i.e. Education Officer (Primary), Zilla Parishad, Hingoli has granted approval to the appointment of the petitioner vide order dated 16.08.2013. On 05.12.2023 the Education Officer has forwarded the proposal to respondent No.3, for including the name of petitioner with another employee Smt. Farheen Sultana Khadir Ahmed in the Online Portal for disbursement of salary i.e. **Shalarth Pranali / ID**. The proposal of Smt. Farheen Sultana was allowed on different grounds on condition but the proposal of petitioner was rejected by order dated 01.01.2024 on the ground that the petitioner does

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 the petitioner teacher 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 01.01.2024 is quashed and set aside.
- iii) We direct that respondent No.3 - Deputy Director of Education, Chhatrapati Sambhaji Nagar would reconsider the proposal of petitioner for entering her name in the '**Shalarth Pranali / ID**', without insisting on the TET qualification.
- iv) Petitioner shall tender 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 petitioner would be deemed to be illegal, petitioner 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 (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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