



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO.4887 OF 2024

Reshma d/o Gulab Sayyed,
Age 34 yrs., Occ. Service, Assistant Teacher,
R/o Budhada, Killari,
Tq. Ausa, Dist. Latur.

... Petitioner

... 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 The Superintendent,
Z.P. Pay Unit (Primary),
Zilla Parishad, Latur.
- 5 Azad Development Society, Latur,
Tq. Ausa, Dist. Latur.
Through it's President.
- 6 Azad Urdu Primary School, Killari,
Iman Nagar, Killari,
Tq. Ausa, Dist. Latur.
Through it's Head Master.

... Respondents

...

Mr. V.S. Panpatte, Advocate h/f Mr. I.D. Maniyar, Advocate for petitioner

Mr. N.S. Tekale, AGP for respondent Nos.1 and 2
Mr. V.C. Patil, Advocate h/f Mr. U.B. Bondar, Advocate for respondent Nos.3
and 4

...

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

DATE : 08th MAY, 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 Shikshan Sevak on 15.06.2017 vide order dated 01.06.2017. A proposal for grant of approval to her appointment was forwarded to respondent No.3 – Education Officer and after scrutinizing the proposal respondent No.3 granted approval in favour of the petitioner vide order dated 09.02.2021. On 15.03.2024 Headmaster of Azad Urdu Primary School, Killari, Tq. Ausa, Dist. Latur has forwarded the proposal to respondent No.3 for including the name of petitioner in the Online Portal for disbursement of salary i.e. **Shalarth Pranali/ID**. The said proposal was rejected by order dated 01.04.2024 on the ground that the petitioner does not have the Teacher Eligibility Test (TET) qualification as per the Government Resolution dated 13.02.2013.

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 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 01.04.2024 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 petitioner without insisting on the TET qualification for entering her name in the Shalarth-ID and releasing her salary.
- iv) Petitioner 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 petitioner would be deemed to be illegal, the 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 and the Management within the same timeline.
- vi) Writ Petition, therefore, stands disposed of.

(S.G. CHAPALGAONKAR, J.)
agd

(SMT. VIBHA KANKANWADI, J.)