



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8659 OF 2023

Gajanan Dasharath Padalwar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for the Petitioner.

Shri N. S. Tekale, A.G.P. for Respondent Nos. 1 to 4.

Shri N. D. Jaiswal, Advocate for the Respondent Nos. 5 and 6.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 13TH NOVEMBER, 2024.

FINAL ORDER :-

. Heard both sides finally at the stage of admission with their consent.

2. Petitioner is challenging order dated 25th December, 2021 passed by the respondent No. 2/Deputy Director of Education, Aurangabad Division, Aurangabad rejecting the proposal of the petitioner seeking approval to his inclusion in the Shalarth Pranali. As the petitioner's appointment was after 13.02.2013 and he was not having Teachers Eligibility Test (T.E.T.) qualification acquired prior to 31.03.2019, he is not held to be eligible for inclusion in the Shalarth Pranali.

3. Learned counsel for petitioner submits that the issue is no

longer *res-integra*. He tenders on record **order dated 17.10.2023** passed by the Coordinate Bench in the matter of **Ramakant Kashinath Rathod Vs. The State of Maharashtra and others in Writ Petition No. 12798 of 2023** with other connected writ petitions and **order dated 04.10.2024** passed by another Coordinate Bench in the matter of **Shaikh Bilal Layak Patel Vs. The State of Maharashtra and others in Writ Petition No. 10939 of 2024**.

4. Learned Assistant Government Pleader supports the impugned order. It is contended that the Deputy Director of Education is justified in rejecting the proposal as it was mandatory to acquire T.E.T. qualification prior to 31.03.2019. He refers to affidavit in reply for that purpose.

5. Present case is squarely covered by the decisions rendered in the matters of **Ramakant Kashinath Rathod Vs. The State of Maharashtra and others** and **Shaikh Bilal Layak Patel Vs. The State of Maharashtra and others** (supra). We propose to adopt same reasoning and course in allowing the petition.

6. Since the matter pertaining to T.E.T. qualification is seized with the Supreme Court, the petitioner cannot be made to work without salary. The proposal refusing to grant approval only on the ground of T.E.T. qualification would deprive him of claiming the salary.

7. In number of similar matters, we have ensured that such petitioners undertake to be bound by the final outcome of the matter before the Supreme Court and have been allowing similar petitions.

8. In view of the above, the writ petition is partly allowed. The impugned order is quashed and set aside with following directions :

a. The petitioner would tender an undertaking that he would abide by the conclusions that would be drawn by the Supreme Court, and if the verdict is adverse, he does not have the T.E.T. qualification or has cleared the T.E.T. after 31/03/2019, or as the case may be, he would abide by the same.

b. Let such affidavit/undertaking be filed in this Court within 15 days from today and a copy is tendered to the concerned Education Officer within the same timeline.

c. Considering the above, the proposal of the petitioner would be considered for entering his name in the 'Shalarth-ID' on its own merits, save and except, the reason that he is not T.E.T. qualified. Needless to state, the proposal would be decided within 30 days after the submission of the undertaking.

d. If an adverse order is passed by the Supreme Court by which the teacher covered, the State Government would not recover the salary already paid to him, since he would have

worked for those tenures and would have earned his salaries for performing the duties.

e. In the event, the candidates like the petitioner are protected by the 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.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

bsb/Nov. 24