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960 w 1009 sr.no.

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

**WRIT PETITION NO. 11631 OF 2023
JYOTSNA MAHADEV BANAJGOLE**

....Petitioner

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

.....Respondent

.....

Advocate for the Petitioner : Mr. T.M. Venjane h/f. Mr. Narsing
Bankatrao Jadhav

AGP for Respondent No.1, 3 to 6 : Mr. N.S. Takale.

Advocate for respondent No.2 : Mr. Anup R. Nikam

Advocate for respondent Nos. 7 and 8 : Mr. D.D. Sarode.

With

WRIT PETITION NO. 11654 OF 2023

SAMBHAJI MAHADEV GAIKWAD

....Petitioner

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

.....Respondents

.....

Advocate for the Petitioner : Mr. T.M. Venjane h/f. Mr. Narsing
Bankatrao Jadhav

AGP for Respondent No.1, 3 to 5 : Mr. S.K. Shirse.

Advocate for respondent No.2 : Mr. Anup R. Nikam

Advocate for respondent Nos. 6 and 7 : Mr. D.D. Sarode.

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

DATE : 21st FEBRUARY. 2024.

P.C. :-

1. Heard.
2. The petitioners have challenged the communication issued by the Respondent No.4 dated 10.7.2023 to respondent No.5, thereby indicating objections in the proposal to include the name of the petitioners in the On-line Portal for disbursement of salary i.e. **Shalarth Pranali**, on the ground that certificate of passing Teachers Eligibility Test Examination (TET) as per the Govt. Resolution dated 13.2.2023, is not annexed.
3. The learned advocate for the petitioners has relied on the **Writ Petition No. 11121 of 2021** (*Dattatray Devidas Sonwale and another Vs. The State of Maharashtra through its Principal Secretary and others*) **and Writ Petition No. 9944 of 2023** (*Ankush Kautik Gonge Vs. The State of Maharashtra through its Principal Secretary and another*) in which reference has been made to the decision of this Bench in **Writ Petition No. 4904 of 2020** (*Sagar Gopichand Bahire vs. State of Maharashtra and others*) dated 11.6.2021, wherein, it has been held that if a candidate has not acquired TET qualification prior to 31.03.2019, then, such candidate cannot be retained in service and the Government will not be liable to pay the salaries. The said matter is now pending before the Honourable **Supreme Court in SLP (Civil) 8300 of 2021** and the Honourable Supreme Court has directed status-quo to be maintained.
4. In the case of similarly situated persons this Court has taken a stand in view of the aforesaid situation that when the petitioners are working, then they should get their salaries and for that purpose their name should be included in the Shalarth Pranali. We adopt the same

view and, therefore, we **partly allow the petitions**, thereby quashing the communication dated 10th July, 2023, with following directions :-

[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.

5. Writ petitions stand disposed of.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-