



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.10857 OF 2024

Sana Samreen Abdul Rauf,
Age 31 yrs., Occ. Household,
R/o Eqbalnagar, Madina Masjid,
Buldana.

... Petitioner

... Versus ...

- 1 The State of Maharashtra
Through it's Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
- 2 Commissioner for Education,
Maharashtra State,
Commissionerate of Education,
(Shikshan Ayuktalaya),
Central Building, Dr. Annie Besant Road,
Pune – 400 001.
- 3 Maharashtra State Examination Council,
Maharashtra State Board of Secondary
and Higher Secondary Education,
Pune (2nd and 4th Floor), Survey NO.832-A,
Plot No.178 and 179, Near Balchitrawani,
Behind Agharkar Research Institution,
Bhamburda, Shivajinagar, Pune – 411 004,
Through it's Secretary.
- 4 Chief Executive Officer,
Zilla Parishad, Jalgaon.
- 5 Education Officer (Primary),
Zilla Parishad, Jalgaon.

... Respondents

...

Mr. V.S. Panpatte and Mr. A.N. Nagargoje, Advocates for petitioner
Mrs. Priya R. Bharaswadkar, AGP for respondent Nos.1 and 2
Mr. V.C. Patil, Advocate h/f Mr. U.B. Bondar, Advocate for respondent No.3
Mr. V.V. Gujar, Advocate for respondent Nos.4 and 5

...

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

DATE : 11th OCTOBER, 2024

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

1 Present petition has been filed for following reliefs :

“(A) For a writ of mandamus, Order or direction in the nature of mandamus, directing the respondents herein and more particularly, the respondents Nos.4 and 5 to issue the Appointment Order in favour of the petitioner pursuant to the G.R. dated 28.08.2017 within such stipulated period as this Hon’ble Court may deem fit and proper.

(B) For a writ of certiorari, Order or direction in the nature of certiorari calling for the record and proceeding of the Impugned Communications dated 25.02.2024 (Exhibit – ‘M’) and 22.03.2024 (Exhibit – ‘N’) issued by the respondents Nos.2 and 3 respectively, and after examining the legality, validity and propriety thereof, the Impugned Communications referred above may kindly be quashed and set-aside to the extent of restraining the concerned authorities from issuing the appointment orders without the character certificate

of Cyber Crime Police Station, Pune.

(C) By issuing appropriate writ, order or direction in the like nature, the respondents herein may kindly be directed to issue the Appointment Order in favour of the petitioner and not to withheld the petitioner's appointment only on the ground of not having the Character Certificate of Cyber Crime Police Station, Pune."

2 Heard learned Advocates Mr. V.S. Panpatte as well as Mr. A.N. Nagargoje for petitioner, learned AGP Mrs. Priya R. Bharaswadkar for respondent Nos.1 and 2, learned Advocate Mr. V.C. Patil holding for learned Advocate Mr. U.B. Bondar for respondent No.3 and learned Advocate Mr. V.V. Gujar for respondent Nos.4 and 5.

3 It will not be out of place to mention here that petitioner is seeking appointment as Teacher and now the respondents are not allowing him to register for the Teacher appointment process or asking him to get character certificate from Cyber Crime Police Station, Pune as the said unit is carrying out the investigation in Crime No.56/2021 (TET scam), for which offence is registered under Section 406, 409, 420, 465, 467, 468 read with Section 34 of the Indian Penal Code, Section 66-D of the Information Technology Act and Section 7 & 8 of the Public Examinations (Prevention of Unfair Means) Act, 2024.

4 Learned Advocate for petitioner is pointing out that Coordinate Bench of this Court in **Hina Kausar Mohammad Riyaz vs. The State of Maharashtra and others** in Writ Petition No.9611 of 2024, order came to be passed on 06.09.2024, wherein pending the reports of Police Authorities including Cyber Cell, Pune, liberty was granted to Zilla Parishad to carry out an assessment of the antecedents of the petitioner and if it is convinced that the petitioner is a candidate suitable for organization, an appropriate decision can be taken and then that writ petition came to be disposed of. Further, in **Ansar Afzal Munniwale and another vs. The State of Maharashtra and others** in Writ Petition No.9826 of 2024 with companion matter decided on 06.09.2024, Coordinate Bench at Principal Seat after taking note of **Hina Kausar** (supra) stated that they would follow the said decision. Even in the present case there is no hurdle for us in adopting the same path in view of the fact that there are many such cases in which similar issue is involved. A balance was required to be struck in view of the fact that there is a big scam of TET, but at the same time, the fact is required to be considered that the said case which is being investigated by the Cyber Cell, Pune i.e. Crime No.56/2021 is against 10 persons. Name of the present petitioner is shown in Crime No.56/2021. It appears that there is also one more offence i.e. Crime No.58/2021, for which Cyber Cell, Pune is investigating the TET scam of examination held in 2018. A communication to that effect appears to have

been sent by Police Inspector, Cyber Police Station, Pune City to Chief Executive Officer, Zilla Parishad, Jalgaon on 28.09.2024.

5 As aforesaid, in **Hina Kausar** (supra) liberty was given to the Zilla Parishad to carry out the assessment and if the petitioner was found to be suitable to the organization, then appropriate decision was supposed to be taken. Similarly, in the other writ petition i.e. **Ansar Afzal Munniwale** (supra) same course was adopted. Now, as regards present petitioner is concerned, a specific communication has been sent and, therefore, it is for the Zilla Parishad to take the decision. Hence, we dispose of the writ petition by following the decision in case of **Hina Kausar** (supra) and **Ansar Afzal Munniwale** (supra). Respondent No.4 is directed to examine and process the case of the petitioner. This direction is restricted to the petitioner in the present case.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

agd