



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10698 OF 2024

1. Hindustani Education Society,
Ausa, through its Secretary
Shaikh Afsar Nawaboddin,
2. Azeem Urdu Madhyamik Vidyalaya
Ausa Dist. Latur
3. Mallebhari Shahin Mohd. Hayat
4. Patel Bibihajra Muqtadeer ... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Education Department,
Mantralaya, Mumbai
2. The Education Officer,
Secondary Education
Zilla Parishad, Latur ... RESPONDENTS

...

Advocate for the Petitioners : Mr. Shaikh Tarek Mobin H.

A.G.P. for Respondent/State : Mr. VM. Jaware

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 30.09.2024

PER COURT :

The petitioners are the Management, School and its two employees, challenging the order of the respondent No.2 – Education Officer dated 19.09.2024 refusing to grant approval to the appointments of the petitioner Nos.3 and 4.

2. Issue notice to the respondents. Learned AGP waive service for both the respondents.

3. At the joint request, the matter is heard finally today itself.
4. The petitioner No.1 is a minority institute. The issue as regards mandatory nature of T.E.T. qualification under the Right of Children to Free and Compulsory Education Act, 2009 is sub judice before the Supreme Court. The impugned order refuses to grant approval only on the ground of the petitioner Nos.3 and 4 being not T.E.T. qualified.
5. Since mandatory nature of T.E.T. qualification *qua* minority institute is sub judice before the Supreme Court, the petitioner Nos.3 and 4 cannot be made to work without salary. The proposal refusing to grant approval only on the ground of T.E.T. qualification would deprive them of claiming the salary.
6. 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.
7. In view of the above, the writ petition is partly allowed. The impugned order is quashed and set aside with following directions:
 - a. The petitioners would tender an undertaking that they would abide by the conclusions that would be drawn by the Supreme Court, and if the verdict is adverse, those who do not have the T.E.T. qualification or have cleared the T.E.T. after 31/03/2019, or as the case may be, they 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 petitioners would be considered for entering their name in the 'Shalarth-ID' on their own merits, save and except, the reason that they are 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 teachers are covered, the State Government would not recover the salaries already paid to them, since they would have worked for those tenures and would have earned their salaries for performing the duties.
- e. In the event, the candidates like the petitioners 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.)

(MANGESH S. PATIL, J.)

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