



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

WRIT PETITION NO. 10939 OF 2024

Shaikh Bilal Layak Patel

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

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

Shri S. P. Joshi, A.G.P. for the Respondent Nos. 1 and 2.

Shri V. C. Patil, Advocate h/f Shri U. B. Bondar, Advocate for the Respondent Nos. 3 and 4.

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 04 OCTOBER 2024.**

FINAL ORDER :

. Petitioner is not granted continuation and approval on the ground that he has not passed the TET (Teachers' Eligibility Test) examination.

2. Issue notice to the respondents. The learned A. G. P. waives service for respondent Nos. 1 and 2. Mr. Patil, learned advocate holding for Mr. U. B. Bondar, learned advocate waives service for the respondent Nos. 3 and 4.

3. At the joint request, the matter is heard finally today itself.

4. The petitioner is working in 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 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 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.

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 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.]

[MANGESH S. PATIL, J.]

bsb/Oct. 24