



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

940 WRIT PETITION NO. 12932 OF 2021
WITH
CIVIL APPLICATION NO.10157 OF 2022

MULLA TASLIM BEGAM RASULSAB
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Sanjay R. Kolare Advocate for Petitioner.
Mr. S.K. Shirse, A.G.P. for Resp. No.1.
Mr. S.B. Pulkundwar Advocate for Resp. No.2.
...

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

DATE : 5th MARCH 2024

ORDER :

1. The petitioner claims to be an employee with the Minority Institution. She came to be appointed as a Shikshan Sevak on 1st April 2015. On 14th May 2015, respondent Nos. 3 and 4 have forwarded the proposal to respondent No.2, for granting approval to the said post of Shikshan Sevak, on aided basis. The said proposal was rejected by order dated 29th October 2021 on

the ground that the petitioner does not have the TET qualification.

2. The issue as to whether the TET qualification would be mandatory to the teachers in the minority institutions, is pending before the Hon'ble Supreme Court.

3. In several matters, at the Principal Seat, at Aurangabad Bench and at Nagpur Bench, the Education Officers have been directed to consider the proposals of the petitioners therein for approval to the post or for entering their name in the Shalarth ID, notwithstanding that they do not have the TET qualification. A recent order delivered on 2nd November 2023 at the Principal Seat in Writ Petition No.6894 of 2023 and 6895 of 2023 is cited before us. The only difference is that in those two cases, the teachers had approval and were praying for inclusion of their names in Shalarth ID / Pranali.

4. The learned AGP has vehemently opposed the Petition on the ground that any relief granted to the petitioner teacher would amount to encouraging the candidates who are appointed by private institutions without requisite qualifications. Subsequently, such institutions will pray for salary grants. The

salary grants are available only for those teachers, who have the requisite qualifications.

5. In view of the above, the Writ Petition stands partly allowed. The communication dated 29th October 2021 is quashed and set aside. We direct that the Education Officer (Primary) Zilla Parishad, Nanded would reconsider the proposal of the petitioner without insisting on the TET qualification. The petitioner shall tender an affidavit / undertaking in this Court as well as copies of the same to the Education Officer and the Management, stating therein that if the Hon'ble Supreme Court concludes that the TET examination is mandatory even to the teachers in minority institutions and the petitioner's appointment would be deemed to be illegal, the petitioner would be willing to suffer the consequences. Let such affidavit / undertaking be filed within fifteen days from today in this Court and a copy be tendered to the concerned Education Officer (Primary) and the Management within the same timeline.

6. The pending Civil Application also stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

asb/MAR24

[SMT. VIBHA KANKANWADI]
JUDGE