



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO.13018 OF 2023

- 1 Inayat Education Society
Through it's President,
Imran Ur Rehman Khan s/o Abdul Rehman Khan,
Age 60 yrs., Occ. Business,
R/o Old Padegaon Road,
Near Inayat Mosque, Inayat Nagar,
Parbhani.
- 2 Md. Zulfeqaruddin Md. Viqaruddin Siddiqui,
Age 40 yrs., Occ. Service,
R/o Dargah Road, Near Farooque Floor Mill,
Galib Nagar, Parbhani, Dist. Parbhani.
- 3 Syed Tafzeel Hashmi Syed Rafiuddin Hashmi,
Age 36 yrs., Occ. Service,
R/o Dargah Road, Behind Altamash Manzil,
Masoom Colony, Parbhani, Dist. Parbhani.
- 4 Shaikh Azam Shaikh Najjam,
Age 31 yrs., Occ. Service,
r/o Dargah Road, Subhedar Nagar,
Parbhani, Dist. Parbhani.
- 5 Mohammad Tareque Ahmad Farooque Ahmad,
Age 29 yrs., Occ. Service,
R/o Dargah Road, in front of Memon Building,
Qazi Bagh, Parbhani, Dist. Parbhani.

... Petitioners

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.

- 2 The Deputy Director of Education,
Aurangabad Division, Aurangabad.
- 3 The Education Officer (Primary),
Zilla Parishad, Parbhani.
- 4 Deputy Educational Inspector,
Office of Deputy Director of Education,
Aurangabad Region, Aurangabad.

... **Respondents**

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Mr. M.N. Shaikh, Advocate h/f Mr. S.S. Kazi, Advocate for petitioners

Mr. P.S. Patil, AGP for respondent Nos.1, 2 and 4

...

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

DATE : 03rd MAY, 2024

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

1 Heard.

2 Petitioner Nos.2 to 5 claims to be the employees with the Minority Institution. Petitioner Nos.1 to 4 came to be appointed as Assistant Teacher on 16.06.2014, 19.06.2014, 20.01.2020 and 15.12.2016 respectively. The Head Master of Maulana Abul Kalam Azad Urdu Primary School submitted a proposal for grant of approval to the appointment of petitioners and after scrutinizing the proposal respondent No.3 i.e. Education Officer

(Primary), Zilla Parishad, Parbhani granted approval in favour of the petitioners vide letter dated 20.01.2023. Head Master of the school has forwarded the proposal to respondent No.3, for including the names of petitioner Nos.2 to 5 in the Online Portal for disbursement of salary i.e. **Shalarth Pranali /ID**, which was recommended by the Education Officer vide letter dated 14.08.2023. The said proposal was rejected by respondent No.4 vide order dated 28.08.2023 on the ground that the petitioners do not have the Teacher Eligibility Test (TET) qualification.

3 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.

4 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 names in the Shalarth ID, notwithstanding that they do not have the TET qualification. A recent order delivered on 02.11.2023 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.

5 The learned AGP has vehemently opposed the petition on the ground that any relief granted to petitioners teachers 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.

6 In view of the above, the following order is passed.

ORDER

- i) The Writ Petition stands partly allowed.
- ii) The communication dated 28.08.2023 is quashed and set aside.
- iii) We direct that respondent No.4 would reconsider the proposal of petitioners for entering their names in the '**Shalarth Pranali / ID**', without insisting on the TET qualification.
- iv) Petitioners shall tender affidavits / undertakings 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 appointment of petitioners would be deemed to be illegal, petitioners

would be willing to suffer the consequences.

v) Let such affidavits / undertakings 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.

vi) Writ Petition, therefore, stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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