



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

973 WRIT PETITION NO.13830 OF 2023

- 1 Misbahuddin s/o Ikramuddin,
Age 40 yrs., Occ. Service,
R/o Mangalwar Peth, Station Road,
Basmat, Dist. Hingoli.
- 2 Shaikh Wasim Ahmed s/o Yunus Patel,
Age 34 yrs., Occ. Service,
R/o Line Talab, Shahar Peth,
Basmat, Dist. Hingoli.
- 3 Smt. Nasreen Begum d/o Nafees Khan,
Age 36 yrs., Occ. Service,
R/o Maulvi Sahab Ki Masjid,
Musafir Shah Mohalla, Basmat,
Dist. Hingoli.
- 4 Shaikh MD Taufiq s/o MD Ayyub,
Age 30 yrs., Occ. Service,
R/o Main Road, Shahar Peth,
Near Line Talab Masjid,
Basmat, Dist. Hingoli.

... 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, Hingoli.

- 4 Yash Education and Welfare Society,
Basmat, Dist. Hingoli.
Through it's President
Syed Nasir s/o Syed Sagir,
Age 44 yrs., Occ. Business,
R/o Musafir Shah Mohalla,
Basmat, Dist. Hingoli.

... **Respondents**

...

Mr. S.S. Kazi, Advocate for petitioners

Mr. A.M. Phule, AGP for respondent Nos.1 and 2

Mr. S.B. Pulkundwar, Advocate for respondent No.3

...

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

DATE : 02nd MAY, 2024

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

1 Heard.

2 Petitioners claims to be the employees with the Minority Institution. Petitioner Nos.1 to 4 came to be appointed as Assistant Teacher on 15.06.2015, 15.06.2016, 11.10.2018 and 01.09.2015 respectively. The Head Master of Aqsa Urdu Primary School, Basmat 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,

Hingoli granted approval in favour of the petitioners vide communication dated 29.12.2017 and 22.06.2022. On 27.03.2023 Head Master of Aqsa Urdu Primary School, Basmat has forwarded the proposal to respondent No.3, for including the names of petitioner Nos.1 to 4 in the Online Portal for disbursement of salary i.e. **Shalarth Pranali /ID**, which was recommended by the Education Officer vide letter dated 29.08.2023. The said proposal was rejected by order dated 09.10.2023 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 09.10.2023 is quashed and set aside.
- iii) We direct that respondent No.2 – Deputy Director of Education, Aurangabad Division, Aurangabad 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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