



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO.953 OF 2020

Mohammad Waris Shaikh Ataullah,
Age 39 yrs., Occ. Service,
R/o 66-16, Sana Kirana,
Aqsa Nagar, Jalgaon,
Tq. & Dist. Jalgaon.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
School Education and Sports Department,
Mantralaya, Mumbai.
- 2 The Education Officer (Primary),
Zilla Parishad, Jalgaon,
Tq. & Dist. Jalgaon.
- 3 Anjuman-E-Khidmate Khalque,
212, Joshi Peth, Jalgaon,
Tq. & Dist. Jalgaon.
Through it's Secretary.
- 4 A.K.K. Urdu Primary School,
Bhawani Peth, Islampura,
Jalgaon, Tq. & Dist. Jalgaon.
Through it's Head Master.

... Respondents

...

Mr. U.B. Bondar, Advocate h/f Mr. K.K. Jadhav, Advocate for petitioner

Mr. K.S. Patil, AGP for respondent No.1

Mr. A.D. Aghav, Advocate for respondent No.2

...

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

DATE : 28th MARCH, 2024

ORDER :

1 Heard.

2 Petitioner claims to be an employee with the Minority Institution. He came to be appointed as a Shikshan Sevak on 13.12.2015. On 01.01.2019 petitioner No.4 has forwarded the proposal to respondent No.2, for granting approval to the said post of Shikshan Sevak. The said proposal was rejected by order dated 30.11.2019 on the ground that the petitioner does 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 name 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/Pranali.

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

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

ORDER

- i) The Writ Petition stands partly allowed.
- ii) The communication dated 30.11.2019 is quashed and set aside.
- iii) We direct that the Education Officer (Primary), Zilla Parishad, Jalgaon would reconsider the proposal of petitioner without insisting on the

TET qualification.

iv) 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 appointment of petitioner would be deemed to be illegal, petitioner would be willing to suffer the consequences.

v) 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.

vi) Writ Petition, therefore, stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

agd