



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO. 13 OF 2024

Shaikh Vaseem Shaikh Azeez
age 33 years, Occ. Service,
R/o Vivre (BK), Taluka Raver,
Dist. Jalgaon.

Petitioner.

Versus

1. The State Of Maharashtra
Through It's Secretary
Education Department,
Mantralaya, Mumbai – 32.
 2. The Education Officer (Primary),
Zilla Parishad, Jalgaon.
 3. The Secretary,
National Ahele Sunnat-Val-Jamal
Education Society Trust,
Imalipura, Jam Mohalla Bhusawal,
Taluka Bhusawal, Dist. Jalgaon.
 4. The Head Mistress,
National Urdu Girls Primary School,
Imalipura, Jam Mohalla Bhusawal,
Taluka Bhusawal, Dist. Jalgaon.
- Respondents.

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Advocate for the Petitioner : Mr. Anant A. Kakde h/f Amol N.
Kakade

AGP for Respondents : Mr. S.K. Shirse
Advocate for Respondent 3,4 : Mr. G.P. Darandale

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

Dated : March 04, 2024

FINAL ORDER :-

1. Present petition challenges the order passed by Respondent No.2 dated 1.12.2023 refusing to grant approval to the services of the Petitioner.

2. The facts, which are not in dispute, are that Respondent no.3 runs a school which has been accorded Minority School Status. Certificate to that effect dated 2.4.2013 has been produced on record. The Petitioner came to be appointed by order dated 1.3.2018. Thereafter, proposal was forwarded by Respondent No.4-Management to the Education Officer for the approval. However, it was not decided and, therefore, petitioner had come before this Court by filing Writ Petition no.12583 of 2023, whereupon, this Court had directed the Respondent No.2 to decide the said proposal within 60 (sixty) days by order dated 12.10.2023. Thereafter, impugned order has been passed by the Respondent No.2 on 1.12.2023 rejecting the proposal on the ground that petitioner has not passed 'TET' examination.

3. The issue in respect of 'TET' qualification as a compulsory or not is presently subjudiced before the Hon'ble Apex Court. Further, whether that rule is applicable to the Minority Institution is another subject. In similar matters wherein the question of 'TET' qualification is involved, this Court has taken a view that upon undertaking and subject to the decision on the subject matter, approval needs to be granted, the petitioner therefore, relies on the order passed by

this Court in Writ Petition no.15228 of 2023 decided on 13.12.2023, We adopt the same procedure.

4. For the said reasons, the **Petition stands partly allowed**. The impugned communication dated 1.12.2023 issued by respondent no.2 is hereby quashed and set aside. We direct the respondent no.2 to consider the proposal in respect of the Petitioner forwarded by respondent no.4 without insisting on 'TET' qualification. The Petitioner shall tender an affidavit undertaking in this Court as well as copies to the Education Officer and the Management, stating therein that if the Hon'ble Supreme Court concludes that the TET qualification is mandatory even to Minority Institutions and petitioner's appointment would be deemed to be illegal, the petitioner would be willing to suffer the consequences. Such an affidavit/undertaking to be filed within a period of Two (2) weeks in this Court as well as before the Respondent no.2 and 3-Management. Thereupon, respondent No.2 shall pass further orders within a period of Two (2) weeks thereafter.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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aaa/-