



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**45 WRIT PETITION NO. 190 OF 2024
WITH
WRIT PETITION NO. 219 OF 2024**

**AURANGABAD SILK MILLS EDUCATION SOCIETY
THROUGH ITS SECRETARY AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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**Advocate for the Petitioners : Mr.Moin N. Shaikh
h/f Mr. S S KAZI**

**AGP for Respondent No. 1 and 2 : Mr. S.P.Joshi
Advocate for Respondent No. 3 : Mr. Prashant R. Nangare**

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 09th DECEMBER 2024

PER COURT :

. In both the petitions, the orders of Respondent No.3/
Education Officer dated 26.04.2021 granting continuation of the
petitioner no.2 with effect from 26.02.2021 is questioned.

2. The approval granted by the Education Officer vide impugned
communication is stated to be defective. The petitioner no. 2 are
rendering services with the petitioner no. 1 which is a minority
institution. There is no dispute about their initial appointment and
approval. The appointment of employees are approved by the

Education Officer vide order dated 12.08.2016. They were continuously rendering services. They passed examination of C-TET on 26.02.2021. They were granted continuity by the management vide letter dated 05.07.2019.

3. Learned Counsel for the petitioner submits that in both cases employees are entitled to continuity from the date 15.06.2019 instead of 26.02.2021. As they are employees of minority institute, TET/C-TET qualification is not mandatory. He would further submit that the issue pertaining to the qualification in question is *sub-judice* before Supreme Court.

4. Learned Counsel appearing for the Respondent No.2 and AGP supports impugned communication. In view of the policy of the government, the respondent no.3/Education Officer has rightly granted the continuity from the date of passing of CTET.

5. Petitioner no.1 in both the petitions is a Minority Institution. In both matters, the petitioner no.2/employees are holding requisite qualification. Their appointment were approved by the Education Officer. Besides by, letter dated 05.07.2019, the Head master has certified their continuation with effect from 15.06.2019. We find that there is no controversy that they are continuously rendering services.

6. Petitioner no.2 in both petitions have cracked the CTET on 26.02.2021. In fact when the petitioner is a Minority Institute, it was

not necessary for them to crack CTET.

7. The issue as to whether CTET or TET is mandatory or not for the Minority Institute is *sub-judice* before Supreme Court and in the Special Leave Petition (SLP) an order of Status quo has also been passed by the Supreme Court. We find that petitioner can be granted continuity subject to final outcome of the decision pending before the Supreme Court. In that view of the matter we pass following order :

ORDER

- I) Both Writ Petitions are allowed partly.
- ii) Impugned communication dated 26.02.2021 passed by Respondent No. 2/Education Officer in both petitions are modified.
- iii) The Employees shall be entitled to continuity with effect from 15.06.2019 with consequential benefits.
- iv) The petitioner No.2 shall furnish undertaking that they would be abide by the final outcome of the decision of the Supreme Court in the above referred matter.
- v) The continuity and other benefits issued to the petitioner no.2 shall be subject to outcome of the decision of the Supreme Court.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]