

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6896 OF 2023

Sandeep Jayram Gavit

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Rahul S. Kadam for the Petitioner

Mr. B.V. Samant, Addl.G.P. with Mr. S.B. Kalel, AGP for Respondent
Nos. 1 & 2

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 30 JANUARY 2024

P.C. :-

The Petitioner's name was not included in the Shalarth Database maintained by the State of Maharashtra for the purpose of grant-in-aid. The reason being that the Petitioner had not passed the Teachers Eligibility Test (TET) before the stipulated period. This Court had held the said test to be mandatory. Thereafter, the parties had approached the Supreme Court where the order of status-quo is granted, pursuant to which the Petitioner continues in service. The question arises is of the payment of salary to the Petitioner who is working.

2. On 8 January 2024, the following order came to be passed :-

*“The learned counsel for the Petitioner states that the Petitioner’s case is similar to the case of the Petitioners in Writ Petition (St.) No. 4723/2023 and others wherein an interim order is passed. He states that an identical order be passed in this writ petition. The learned AGP seeks time. Stand over to **15 January 2024**, to be listed under the caption **“For Directions”**.”*

Thereafter, on 15 January 2024, the following order was passed :-

*“The learned Addl. GP seeks further time to examine the orders passed by this Court regarding payment to the teachers such as the Petitioner upon an undertaking. Stand over to **30 January 2024**, to be listed under the caption **“For Directions”**.”*

3. The learned Counsel for the parties have placed before us the order passed by the Division Bench (Aurangabad Bench) in Writ Petition No. 11121 of 2023 dated 7 September 2023 wherein the Division Bench has considered identical situation as to whether the Petitioner should be paid salary or not and has passed certain directions. The learned Counsel are *ad idem* that this direction would apply to the case of the Petitioner as well.

4. Accordingly, the Writ Petition is disposed of on same terms as Writ Petition No. 11121 of 2023.

5. Hence, the following order :-

(a) The impugned orders are quashed and set aside.

(b) The Petitioner would tender an undertaking that, they would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to those teachers who do not have the TET qualification or have cleared the TET after 31/03/2019, or as the case may be, they would abide by the same without raising any cause of action.

(c) Let such affidavit undertaking be filed in this Court within 15 days from today and a copy be tendered to the concerned Education Officer within the same timeline.

(d) Considering the above, the proposal of the Petitioner would be considered for entering their names in the 'Shalarth-ID' on their own merits, save and except, the reason that they are not TET qualified. Needless to state, the proposals would be decided within 30 days after the submissions of the undertakings.

(e) If an adverse order is passed by the Hon'ble Supreme Court by which the teachers are covered by clause (a), the State Government would not recover the salaries already paid to them, since they have worked for those tenures and they have earned their salaries for performing their duties.

(f) In the event, the candidates like the Petitioner are protected by the Hon'ble Supreme Court's conclusions and they are held to be qualified to continue in employment, they would be entitled for all service benefits like promotions, increments, etc.

M.M. SATHAYE, J.

NITIN JAMDAR, J.