

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12176 OF 2023

Smt. Santabai Dattatraya Yadav

... Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. V. S. Deokar i/b. Ms. Geetarani Ghanate for the Petitioner.

Mr. V. M. Mali, AGP a/w. Ms. Priyanka B. Gavhane, AGP for the
Respondent-State.

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

DATED : 1 APRIL, 2024

P.C.:

1. Heard learned Counsel for the parties. Perused record.
2. Learned Counsel for the Petitioner, on instructions, states that there is no *inter se* dispute in the Respondent-Management and it is supporting the case of the Petitioner. We proceed on the basis of the said statement.
3. The Petitioner is working as Assistant Teacher with the Respondent No. 3 - School run by the Respondent No. 4-Management. The Petitioner is challenging the impugned orders dated 27 October 2021 and 12 November 2021, by which the Respondent No. 3-Education

Officer (Primary), Zilla Parishad, Solapur had initially passed an order terminating the Petitioner's services for not clearing the TET examination, despite the fact that the original approval dated 31 August 2016 was subject to clearing the TET examination within 3 years.

4. It appears that the Petitioner made a representation and contended that TET is not required for the Petitioner because her approval is as per the School Tribunal order dated 30 June 2003, wherein there is no such condition. Thereafter, by final impugned order dated 12 November 2021, the Respondent No. 3-Education Officer has recalled the order of termination with directions that the Petitioner's services will be continued, but without salary till the time the Petitioner clears TET Examination.

5. Learned Counsel for the Petitioner has relied upon the order dated 7 September 2023 in Writ Petition No. 11121 of 2023 (Dattatry D. Sonwale & Ors. Vs. State) passed by the co-ordinate bench of this Court (at Aurangabad) and submitted that the Petitioner is ready to abide by similar undertaking which is permitted by this Court in the said order. Learned AGP has only pointed out that in this case the approval was conditional dependent on passing TET in stipulated time.

6. We have perused the said order dated 7 September 2023. The Petitioner in that case also, had not passed TET. The Petitioner is working as of today. However, considering the predicament of the

teachers to survive on meagre salary or no salary, an order of status quo is granted in the proceedings pending before the Hon'ble Supreme Court.

7. Hence, the following order.

(a) The impugned orders are quashed and set aside, subject to the Petitioner filing an undertaking on affidavit in this Court that, she will 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, she will abide by the same and suffer the consequences without raising any cause of action.

(b) Let such 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.

(c) Considering the above, the proposal of the Petitioner is restored and shall remain pending during pendency of the issue in the Hon'ble Supreme Court.

(d) If an adverse order is passed by the Hon'ble Supreme Court by which the Petitioner is covered, the Respondent education authorities shall proceed to decide the Petitioner's proposal accordingly, however the State Government would

not recover the salary already paid to the Petitioner, since she would have worked for the tenure interregnum and has earned her salary for performing her duties

(e) 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, the Petitioner would be entitled for all service benefits like promotions, increments, etc.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)