

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13131 OF 2023

Yogesh Babruvahan Yadav and Ors. ... Petitioners

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Dinesh Bhosale for the Petitioners

Mr. S. B. Kalel, 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 the record.
2. The Petitioner Nos. 1 working as Assistant Teacher in the Petitioner No. 3 School/Junior College run by the Petitioner No. 2-Management, are jointly challenging the impugned order dated 4 April 2022 passed by the Respondent No. 2 (Deputy Director of Education, Pune Division, Pune) by which the said authority has refused to enter the name of Petitioner No. 1 in *Shalarth ID* system on the ground that there is a court case in respect of TET.
3. It is the case of the Petitioners that the Respondent No. 3 has

granted due approval to the Petitioner No. 1's appointment by order dated 8 February 2021, which is produced on record at page 59. It is pointed out that the order of approval itself shows that the Petitioner No. 1 has cleared TET. It is submitted that when the Petitioners sent a proposal of entering Petitioner No. 1's name in Shalarth ID system, the same is rejected vaguely stating the ground of TET and Court case.

4. Relying 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) it is submitted that the Petitioner is ready to abide by similar undertaking which is permitted by this Court in the said order. Learned AGP was at pains to support the impugned Order, however could not distinguish the present case from the that of the Judgment relied.

5. We have perused the said order dated 7 September 2023. The Petitioner in that case had not passed TET. The Petitioner is working as of today. Order of status quo is granted in the proceedings pending before the Hon'ble Supreme Court. The Petitioner cannot work without salary.

6. Hence, we pass the following order.

(a) The impugned order is quashed and set aside, on the Petitioner filing an undertaking on affidavit in this Court that he 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, the Petitioner 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 would be considered for entering his name in the 'Shalarth-ID' on its own merits, save and except, the reason about TET qualification. The proposal will be decided within a period of 4 weeks after the submission of the undertaking.

(d) If an adverse order is passed by the Hon'ble Supreme Court by which the Petitioner is covered, the State Government would not recover the salary already paid to the Petitioner, since he would have worked for the tenure interregnum and would have earned his salary for performing his 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.)