

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3075 OF 2023

Shri Pankaj Bhima Bhangare ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Prashant Bhavake, for Petitioner.

Ms. Ashwini A. Purav, AGP for Respondent Nos. 1 to 5.

Mr. Utkarsh Desai for Respondent Nos. 6 and 7.

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

DATE : 14 AUGUST 2024

P.C.:

1. Heard learned counsel for the parties.
2. The Petitioner, working as Assistant Teacher with Respondent No. 7 High School run by Respondent No. 6 Education Institute, challenging the order dated 5 July 2019 passed by Respondent No. 4 Deputy Director of Education, Kolhapur Region, Kolhapur. By the said impugned order, while granting the permission to include the name of the Petitioner in Shalarth Pranali, it is ordered that salary of the Petitioner is payable only till 30 March 2019. Aggrieved by this rider in the impugned order, the present petition is filed. Learned Counsel for Respondent Nos. 6 & 7 states that they are supporting the Petitioner.
3. Learned counsel for the Petitioner has pointed out that the

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appointment of the Petitioner as Shikshan Sevak is duly approved under the order dated 11 May 2018 and as Assistant Teacher under the order dated 3 July 2018 both passed by Respondent No. 5 Education Officer (Secondary), Zilla Parishad, Kolhapur and these approvals are not set aside or varied. Copies of these approvals are produced on record as Exhibits 'E' and 'F'. He submitted that in such circumstances when the proposal for including the Petitioner's name in Shalarth ID was submitted, the impugned order has been passed.

4. Learned counsel for the Petitioner relied upon the order dated 7 September 2023 in Writ Petition No. 11121 of 2023 passed by the co-ordinate bench of this Court (at Aurangabad) and it is submitted that the Petitioner is ready to abide by similar undertaking, as given in the said order.

5. Perusal of the impugned Order shows that there is reference to Government Resolution (GR) dated 24 August 2018. Apparently since the Petitioner has not acquired TET qualification and since the said GR provides for a cut-off date of 30 March 2019, the impugned Order has limited the approval till that date. The said GR makes it compulsory for passing TET exam till 30 March 2019.

6. This issue is pending in the Hon'ble Supreme Court. It is not disputed that the appointment of the Petitioner is already approved and in similar situation, this Court has permitted Shalarth ID entry on certain undertaking. In that view of the matter, we dispose of this

petition by passing following order on the same terms as imposed in Writ Petition No. 11121 of 2023 :

- (a) The impugned order is quashed and set aside.
- (b) The Petitioner will tender an undertaking that, he would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to teachers who do not have the TET qualification or have cleared the TET after 31/03/2019, or as the case may be, he 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 copy be tendered to the concerned Education Authority within the same timeline.
- (d) Considering the above, the proposal of the Petitioner would be considered on its own merits, save and except the reason that Petitioner is not TET qualified. Needless to state that the proposal would be decided within 30 days after the submission of the undertaking.
- (e) 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 salaries already

paid to him, since he would have worked for tenure interregnum and would have earned his salary for performing his 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, the Petitioner would be entitled for all service benefits like promotions, increments, etc.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)