

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

WRIT PETITION NO. 6517 OF 2023

Sindhu Kailash Gare

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Saurabh Pakale with Mr. Nilesh Desai i/b. Ms. Padmaja U. Malgaonkar for the Petitioner

Mr. B.V. Samant, Addl. G.P. with Ms. T.J. Kapre, AGP for the Respondent - State

Mr. Ashutosh Misra for Respondent – UOI

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

DATE : 03 APRIL 2024

P.C. :-

The Petitioner has challenged the order passed by the Deputy Director of Education dated 27 December 2022 whereby the approval granted to the Petitioner's appointment has been cancelled.

2. The order dated 27 December 2022 observes certain shortfalls and errors in the order of approval. However, the sole reason on the basis of which the decision is based is that the Petitioner had not passed the Teachers Eligible Test (TET) within the stipulated period. The issue whether this requirement is valid is

pending before the Hon'ble Supreme Court in which the order of status-quo is granted.

3. The learned Counsel for the Petitioner relies on the decision/order of the Aurangabad Bench of this Court in Writ Petition No. 11121 of 2023 (*Dattatray Devidas Sonwale and Anr. vs. The State of Maharashtra through its Principal Secretary and Ors.*) decided on 7 September 2023, which is followed by this Court in another batch of Writ Petitions with lead Writ Petition No. 12628 of 2023 vide order dated 11 December 2023. Therefore, direction is sought as per the aforesaid decision.

4. Having perused the impugned order and the orders passed in Writ Petition No. 11121 of 2022, we find the factual position is identical and therefore, this Petition also needs to be disposed of in same terms as per order dated 8 February 2024 passed in Writ Petition No. 12215 of 2023 (*Ranjana Sudam Chimate vs. The State of Maharashtra through the Secretary, Department of School Education and Sports & Ors.*).

5. In light thereof, we dispose of the above Petition by passing the following directions :

(a) The Petitioner would tender an undertaking that, she 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, she would abide by the same without raising any cause of action.

(b) 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.

(c) Considering the above, the proposal of the Petitioner would be considered for entering her name in the 'Shalarth-ID' on its own merits, save and except, the reason that she is not TET qualified. Needless to state, the proposal would be decided within 30 days after the submission of the undertaking.

(d) 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.

(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, they would be entitled for all service benefits like promotions, increments, etc.

M.M. SATHAYE, J.

NITIN JAMDAR, J.