

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

WRIT PETITION NO. 6544 OF 2024

1. Gulzeba Abid Kureshi
2. Khatik Riaz Ahmed Mohammed Farooque
3. Mansuri Arshiya Arif
4. Shabana Banu Iqbal Ahmed
5. Danish Muslim Khatik ...Petitioners
Versus
The State Of Maharashtra And Ors ...Respondents

Mr. Sanjeev B. Deore a/w. Ms Suchita J. Pawar, Mr. Jitendra K. Pagare,
Mr. Navin Singh for the Petitioners.
Ms R. A. Salunkhe, AGP for the Respondent Nos. 1 and 2

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

DATED : 8 MAY 2024

P.C.:

1. The Petitioners are Assistant Teachers working with the Respondent No. 5-School which is stated to be run by a minority institute. The Petitioners are challenging the order of the Respondent No.3-Education Officer (Primary), Zilla Parishad, Nashik by which approval to enter the Petitioners' name in the Shalarth Paranali software system is refused.
2. Learned Counsel for the Petitioners pointed out that the

appointments of the Petitioners are already approved under orders dated 5 January 2015, 7 July 2014, 6 August 2019 and 7 December 2021 which are produced on record. The reason for refusal in the impugned order is that the Petitioners have not cleared TET examination.

3. Learned Counsel for the Petitioners have relied upon the order passed by the Division Bench of this Court (Aurangabad Bench) in Writ Petition No. 11121 of 2023 dated 7 September 2023 wherein identical situation is considered and a conditional order is passed, considering that the issue of TET clearance is pending in the Hon'ble Supreme Court. Learned AGP could not distinguish the present case from the said order relied upon by the Petitioners.

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

5. Hence, the following order:

(a) The impugned order is quashed and set aside.

(b) The Petitioners 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 of undertaking be filed in this Court

within 15 days from today and a copy be served upon the concerned Education Officer within the same timeline.

(d) Considering the above, the proposal of the Petitioners 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 Petitioners are covered, the State Government would not recover the salaries already paid to them, since they would have worked for those tenures and they would have earned their salaries for performing their duties.

(f) In the event, the candidates like the Petitioners 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.)