

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

WRIT PETITION NO.9191 OF 2022

Supriya Suresh Malshikare

..... Petitioner

Vs.

State of Maharashtra and Ors.

..... Respondents

Mr. Laxman S. Deshmukh for the Petitioner

Ms. Pooja Joshi Deshpande, AGP for the Respondent Nos. 1 to 3

Mr. Sachin B. Thorat for the Respondent Nos. 4 & 5

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

DATED : 9 MAY 2024

P.C.:

1. Heard learned Counsel for the parties.
2. The Petitioner is before us making a grievance that the salary grant in respect of her appointment, which was approved has been withheld primarily on the ground that the Petitioner has not passed the Teachers Eligibility Test (TET).
3. That there exists an approval in respect of the Petitioner's appointment is not in dispute. The Petitioner's name also appears in the Shalarth Pranali. The Education Officer inspite of these two facts, has directed that the salary grant be withheld. We are informed that the issue regarding applicability of the TET and the retrospective applicability of

the Government Resolution is pending before the Hon'ble Supreme Court.

4. In this circumstance, we take note of the order passed by the Division Bench of this High Court (Aurangabad Bench) in Writ Petition No. 11121 of 2023 dated 7 September 2023 where the Division Bench has considered the implications of the pendency of the proceedings in the Hon'ble Supreme Court and has issued certain directions. Learned AGP states that the directions given in the said decision would apply to the present case as well.

5. In the light thereof, the Writ Petition is disposed on the same terms as Writ Petition No. 11121 of 2023.

6. Hence, the following order:

- (a) The impugned order is quashed and set aside.
- (b) 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.
- (c) Let such affidavit of 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.

(d) If an adverse order is passed by the Hon'ble Supreme Court by which the teachers such as the Petitioner is covered, the State Government would not recover the salaries already paid to her, since she would have worked for those tenures and she would have earned her salaries for performing her duties.

(e) In the event, the candidate like the Petitioner is protected by the Hon'ble Supreme Court's conclusions and she is held to be qualified to continue in employment, she would be entitled for all service benefits like promotions, increments, etc

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)