

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10708 OF 2019
WITH
INTERIM APPLICATION NO.20595 OF 2022
IN
WRIT PETITION NO. 10708 OF 2019

Shri Shaikh Azim Shaikh Ibrahim and anr. ... Petitioners

Versus

The State of Maharashtra and ors ... Respondents

Mr. S. S. Kazi for the Petitioners.

Mr. S. B. Kalel, AGP for the Respondent- State.

CORAM : NITIN JAMDAR AND
M.M. SATHAYE , JJ.

DATE : 27 MARCH 2024.

P.C. :

Heard the learned counsel for the parties.

2. Learned counsel for the Petitioner prays for grant of prayer clause (b) to the Petition so as to quash and set aside the impugned order dated 14 June 2019 issued by Respondent No.2 – Deputy Director of Education to cancel the approval granted to the appointment of the Petitioner No.1 in Primary School as he has not passed Teacher Eligibility Test (“T.E.T.”). The approval granted to

the Petitioner's appointment was cancelled by way of the impugned order on the above ground. On instructions, the learned counsel for the Petitioner has proceeded on the basis that the Petitioner was appointed in the primary school.

3. The impugned order issued by the Respondent No.2, holds that since the Petitioner No.1 has not passed T.E.T., that he is not eligible for appointment and therefore, the approval granted to his appointment is liable to be cancelled

4. Learned counsel appearing for the Petitioner has placed before us the order passed by the Division Bench (Aurangabad Bench) in Writ Petition No.11121 of 2023 dated 7 September 2023 wherein the Division Bench has considered identical situation as to whether the Petitioner should be paid salary or not and has passed certain directions. The learned counsel is *ad idem* that this direction would apply to the case of the Petitioner as well.

5. Accordingly, the Writ Petition is disposed of 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, he

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, he would be 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 a copy be tendered to the concerned Education Officer within the same timeline.
- (d) Considering the above, the proposal of the Petitioner would be considered for entering his name in the 'Shalarth-ID' on his own merits, save and except, the reason that he is not TET qualified. Needless to state, the proposal 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 teachers are covered by clause (a), the State Government would not recover the salaries already paid to him, since he has worked for those tenures and he has earned his salary for performing his duties.
- (f) In the event, the candidate like the Petitioner is protected by the Hon'ble Supreme Court's conclusions and he is held to be qualified to continue in employment, he

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)