

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

***WRIT PETITION NO. 16444 OF 2023***

Nilam Mahaduram Musale and Anr. ... Petitioners  
V/s.  
The State of Maharashtra and Ors. ... Respondents

Mr. Sanjeev B. Deore with Suchita J. Pawar for the Petitioners  
Mr. S.B. Kalel, AGP for the Respondent - State

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

***DATE : 30 JANUARY 2024***

**P.C. :-**

Heard the learned Counsel for the Petitioners.

2. The facts pleaded in this Petition are only reflected in paragraphs 4 and 5 of the Petition which are as follows :-

*“ 4. Petitioners submits that Petitioners were appointed on 20.06.2013 in the Respondent No.4 school on Non-grant scale. The appointment of the Petitioners were made by the Respondent No.4 in accordance with Rule 9 of MEPS Act, 1981. Further the appointments of the Petitioners were confirmed/approved by the Respondent No.3 vide order/letter dated 26.07.2019.*

*5. Petitioners submits that the Petitioners were transferred in 20% grant scale by the Respondent No.4*

*and their transfer on 20% grant scale was approved by the Respondent No.3 vide order dated 30.03.2021 accordingly they were receiving monthly salary of 20% grant. Again the Petitioners were transferred from 40% to 60% granted scale and the same was approved by the Respondent No.3 vide order dated 29.03.2023.”*

3. The learned Counsel for the parties have 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 are *ad idem* that this direction would apply to the case of the Petitioners as well.

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

5. Hence, the following order :-

(a) The impugned orders are 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 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 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 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.

(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.*