

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1446 OF 2024

Sunanda Sukhdeo Shinde @ Sunita Bhaskar
Jejurkar

...Petitioner

Versus

The State Of Maharashtra Through the
Secretary, Department Of Education and
Sports, Mantralaya, Mumbai And Sports And
Ors.

...Respondents

.....

Mr. Sanjeevakumar B. Deore, for Petitioner.

Ms. Ashwini A. Purav, AGP for Respondent Nos.3 to 5.

.....

Digitally signed
by
HUSENBASHA
RAHAMAN
NADAF
Date: 2024.02.09
16:32:47 +0530

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

DATE : 6 FEBRUARY 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. Petitioner submits that Petitioner was appointed as Shikshan Sewak on 15.06.2017 as Asst. Teacher in the Respondent No-5 school in granted scale. The appointment of the Petitioner was made by the Respondent No-3 under Rule 9 of MEPS Act 1981. Further the appointment of the Petitioner was confirmed/approved by the Respondent No-3 vide order/letter dated 03.02.2022 on granted scale. Hereto

*annexed and marked as **Exhibit- B** is the copy of approval order of Petitioner dated 03.02.2022.*

5. Petitioner submits that the proposal of the Petitioner was forwarded to Respondent No-2 to create shalarth id for releasing her monthly wages however the Respondent No-2 refused to create the same on the ground that the Petitioner have acquire the TET/CTET qualification on 28.08.2020 which is not within the stipulated dated i.e. 31.03.2019 as laid down under the RTE Act 2009 and its amendment act 2017. Hence this Petition.

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 Petitioner 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 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 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 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 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 Petitioner is covered, the State Government would not recover the salaries already paid to her, since she has worked for the tenure and she has earned her salaries for performing her duties.

(f) In the event, the candidates 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.)