

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

WRIT PETITION NO. 15242 OF 2022

Harsha Tanaji Tambe

...Petitioner

Versus

The Union of India and Ors.

...Respondents

Mr. Nikhil Adkine for the Petitioner.

Ms. S.S. Bhende, AGP for Respondent Nos. 2 to 5.

Mr. Suryajeet Chavan for Respondent No.7.

**SNEHA
NITIN
CHAVAN**

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

DATE : 1 FEBRUARY 2024

P.C. :

. Heard learned counsel for the parties.

2. It is submitted that the Petitioner's salary is withheld by the Respondent Authority since 1 January 2020 on the ground that the Petitioner has not completed TET/CTET on or before 31 March 2019. Being aggrieved and dissatisfied by this act, the Petitioner has filed present Petition.

3. The Petitioner is working as Assistant teacher with Respondent No.7 school. The Petitioner is belonging to NT category. The Petitioner's appointment has been duly approved on non permanent

non-grant basis. On 26 February 2021, the Petitioner has successfully passed CTET exam and Respondent No.7 school has submitted the Petitioner's proposal intimating that the Petitioner has secured CTET qualification requesting to release her salary.

4. The learned counsel for the Respondent No.7 submitted that the school is supporting the Petitioner's case. We proceed on the basis of the said statement.

5. In other matter, this Court has held that the Teachers Eligibility Test (TET) is mandatory, however the same has been challenged in the Hon'ble Supreme Court, where an order of status quo is already granted, pursuant to which the teachers like the Petitioner are continuing in service. The question therefore arises is of payment of salary to the Petitioner, who is working.

6. Learned counsel for the Petitioner has relied upon an order passed by the Division Bench of this Court (Aurangabad Bench) in Writ Petition No. 11121 of 2023 dated 7 September 2023 wherein the Division Bench has considered identical situation as to whether such teacher should be paid salary or not during pendency of the issue in the Hon'ble Supreme Court. The learned counsel for the parties are *ad idem* that the direction as issued in the aforesaid Writ Petition No. 11121 of 2023 would apply to the Petitioner as well.

7. In light thereof, the present petition is disposed of on same terms as Writ Petition No. 11121 of 2023 by passing following order :

(a) The Petitioner would file an undertaking on affidavit that, she would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to the Petitioner, who has cleared the TET after 31/03/2019, she would abide by the same without raising any cause of action.

(b) Let such undertaking be filed in this Court within 15 days from today and a copy thereof be tendered to the concerned Education Officer within the same timeline.

(c) Considering the above, the proposal of the Petitioner would be considered on its own merits, save and except, the reason that she is not TET qualified before 31 March 2019. Let the proposal be decided within 30 days after the submission of the undertaking.

(d) 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 salary already paid to her, since she has worked for that tenure and she has earned her salary for performing her duties.

(e) In the event, the candidates like the Petitioner are protected by the Hon'ble Supreme Court's conclusions and they are

held to be qualified to continue in employment, the Petitioner would be entitled for all service benefits like promotions, increments, etc.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)