

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

WRIT PETITION NO. 2028 OF 2024

Pradnya Narendra Kamble & Ors. ... Petitioners

versus

The State of Maharashtra & Ors. ... Respondents

AND

WRIT PETITION NO. 8245 OF 2023

Dattatray Maruti Sabale ... Petitioner

versus

The State of Maharashtra & Ors. ... Respondents

AND

WRIT PETITION NO. 2430 OF 2024

Kishor D. Tarade & Ors. ... Petitioners

versus

The State of Maharashtra & Ors. ... Respondents

....

Mr.Nilesh Desai with Ms.Netra Tembe i/b. Ms.Padmaja Malgaonkar for
the Petitioners in all Petitions.

Mr.V.M. Mali, AGP for the Respondent -State in WP No. 2028 of 2024.

Mr.S.H.Kankal, AGP for the Respondent -State in WP No. 8245 of
2023.

Mr.S.B.Kalel, AGP for the Respondent -State in WP No. 2430 of 2024.

....

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 3RD DECEMBER, 2024

P.C.:

1. Though Writ Petition Nos. 8245 of 2023 and 2430 of 2024,
are kept along with Writ Petition No. 2028 of 2024, they are not listed

on board. On mentioning, taken on board.

2. In all these matters, barring one Petitioner, namely, Pradnya Narendra Kamble, all other Petitioners do not have Teacher Eligibility Test (TET) qualification. However, all of them have been granted approval by the Education Officer. In this backdrop, we have heard the learned Advocates for the respective sides and have perused the order passed by this Court at Aurangabad dated 7th September, 2023 in Writ Petition No. 11121 of 2023 (*Dattatry Devidas Sonwale And Another V/s. The State of Maharashtra Through Its Principal Secretary And Others*), the order dated 10th August, 2023 passed by a Co-ordinate Bench at Aurangabad in Writ Petition No. 9944 of 2023 and the recent order passed at the Principal Seat on 12th November, 2024 in Writ Petition No. 16423 of 2023 and connected matters (*Stephie Sushant Ransing Alias Stephie Sebastian John V/s. The State of Maharashtra and Ors.*)

3. In the order passed on 25th November, 2024 in Writ Petition 7398 of 2024 and a group of cases (*Utkarsh Devidas Bachhav & Ors. Versus The State of Maharashtra & Ors.*), we have noted the following four categories:

(A) Candidates who have passed the Teacher Eligibility Test (TET)/Central Teacher Eligibility Test (CTET) after the cut-off

date 31st March, 2019.

(B) Candidates falling in the Category 'A', who have been granted approval, but are yet to receive allocation of Shalarth-ID.

(C) Candidates who have not cleared the TET/CTET, were appointed by a Management in an Institution which had no salary grants and such candidates were granted approval to their appointments on no grant basis by the Education Officers.

(D) Candidates who do not have TET/CTET and whose appointments are on no grant basis establishments and who have not been granted approvals by the Education Officers or the Competent Authority.

4. The Petitioner, Pradnya Kamble, would fall in category A and all other candidates would fall in category C. A solemn statement is made by the learned Advocate on instructions of the Petitioners that none of the Petitioners fall under category D.

5. To avoid repetition, we have considered the orders passed in ***Dattatry Devidas Sonwale And Another*** (Supra) and ***Stephie Sushant Ransing*** (Supra). The said orders are explicit insofar as imposition of conditions on candidates falling in Categories 'A', 'B' and 'C' as above.

All such candidates have been granted conditional Shalarth-ID for the reasons recorded in the said two orders. We have also recorded that the salaries, to the extent of the percentage of salary grants to be paid by the Government, would not be recovered from such candidates since they have earned their salaries by working. It goes without saying that the Managements who have appointed the teachers without the TET/CTET qualifications, would be liable to pay the remainder portion of the salary as per the approved scales, over and above the percentage of salary grants extended by the State Government.

6. There have been various orders passed by this Court at the Principal Seat, the Nagpur Bench and the Aurangabad Bench, whereby directions have been issued to consider the proposals for approvals by ignoring the lack of TET/CTET qualifications. One such order is passed by the Co-ordinate Bench at Aurangabad, dated 10th August, 2023 in Writ Petition No.9944 of 2023. This Court had observed in Paragraph No.3 in the Order dated 7th September, 2023, passed in ***Dattatry Devidas Sonwale And Another*** (Supra), that the Judgment of this Court dated 11th June, 2021, delivered in Writ Petition No.4904 of 2020 (***Sagar Gopichand Bahire V/s. State of Maharashtra and Others***), was not cited before the Co-ordinate Bench, which passed the order dated 10.08.2023.

7. In view of the above, we deem it appropriate to follow the course adopted in the order dated 12th November, 2024 in ***Stephie Sushant Ransing*** (Supra), to the extent of Categories ‘A’, ‘B’ and ‘C’ recorded in Paragraph No.3, herein above. Insofar as the candidates falling in Category ‘D’ set out above, keeping in view the law laid down by the Full Bench of this Court in ***St.Ulai High School V/s. Devendraprasad Jagannath Singh***, 2007 (1) Mh.L.J. 597, the services of such Employees would not be terminated for lack of approval and they would continue to draw salary from the coffers of the Employer/Management.

8. Needless to state, the conditions set out in the Paragraph No.10 in ***Dattatry Devidas Sonwale And Another*** (Supra) and the directions issued by this Court in Paragraph Nos.11, 12, 13 and 14 in the order dated 12th November, 2024 in ***Stephie Sushant Ransing*** (Supra), would be applicable to all these Petitioners falling in Categories ‘A’, ‘B’ and ‘C’.

9. In ***Utkarsh Devidas Bachhav & Ors.*** (supra), we have recorded the submissions of the learned Advocate General that, it is one thing to say that the salaries paid from the salary grants extended by the

Government to the Employees falling in Categories 'A', 'B' and 'C', should not be recovered because they have worked. However, since the Employers have appointed candidates without acquisition of the TET certificate and have received approvals when the candidates were appointed on no grant basis, if such candidates are being paid the salaries to the extent of the proportion of the grants extended by the State Government, the right to recover such amounts from the Management, be left open. We are, therefore, leaving this issue open to be considered in an appropriate case.

10. In the light of the above, **these Writ Petitions are disposed off.**

11. The impugned orders to the extent of non-grant of the Shalarth ID, despite approval having been granted, are quashed and set aside and a conditional Shalarth ID shall be granted to these Petitioners by imposing the same conditions as have been set out in ***Dattatry Devidas Sonwale And Another*** (*supra*).

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)