

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8151 OF 2024

Sheetal Neharkar and Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Vinayak Kumbhar and Mr. Rajendra Khaire i/b. Ms. Ashwini Bandiwadekar, for Petitioners.

Mr. Niraj Prajapati i/b. Mr. Sandeep D. Shinde for Respondent No.2. Mr. B.V. Samant, Addl. G.P. a/w. Mr. V.G. Badgujar, AGP for Respondent/State.

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

DATE : 14 JUNE 2024

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P.C.:

- . Heard learned Counsel for the parties. Perused record.
2. The Petitioner No. 1 Employee, working as Shikshan Sevak with the Petitioner No. 2 - a minority Education Institute are jointly challenging the impugned order dated 28 February 2020, by which the Respondent No. 3 - Deputy Director of Education, Mumbai Region Mumbai has refused to enter name of Petitioner No. 1 in Shalarth ID system, for not clearing the TET examination.
3. Leaned counsel for the Petitioners has pointed out that

Petitioner No. 1's appointment is approved by order dated 18 July 2019 passed by the Respondent No. 2 (Administrative Officer, Kalyan Dombivli Municipal Corporation), which is annexed to the petition. It is further pointed out that on 18 March 2021 i.e. after the impugned Order, the Respondent No. 2 Education Authority has granted approval to the Petitioner No. 1 as full time assistant teacher in applicable pay-scale for completing 3 years satisfactorily. This approval is also annexed to the petition.

4. The question that arises therefore is of the payment of salary to the Petitioner who is working with due approvals.

5. The learned Counsel for the Petitioners has relied upon and placed before us the order passed by the Division Bench (Aurangabad Bench) in Writ Petition No. 11121 of 2023 (Dattatraya D. Sonwale Vs. State of Maharashtra) dated 7 September 2023 wherein the Division Bench has considered identical situation as to whether a teacher should be paid salary or not when name is not entered in Shalarth for want of passing TET and has passed certain directions for balancing equities. In the present matter, the Petitioner No. 1's appointment is admittedly approved.

6. In light thereof, this Writ Petition is disposed of on same terms as Writ Petition No. 11121 of 2023.

7. Hence, the following order :-

(a) The impugned order is quashed and set

aside.

(b) The Petitioner No. 1 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 March 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 Authority within the same timeline.

(d) Considering the above, the proposal of the Petitioner No. 1 would be considered for entering their names in the 'Shalarth-ID' on its own merits, save and except, the reason that she is not TET qualified. Needless to state, the proposal would be decided within 30 days after the submissions of the undertaking.

(e) If an adverse order is passed by the Hon'ble Supreme Court by which the Petitioner No. 1 is covered, the State Government would not recover

the salaries already paid to her, since she would have worked for tenure interregnum and she would have earned her salaries for performing her duties

(f) In the event, the candidates like the Petitioner No. 1 are protected by the Hon'ble Supreme Court's conclusions and they are 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.)