

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5176 OF 2024

Yasmeen Yunus Maniyar

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

Mr. Sanjeev Deore a/w Ms. Suchita Pawar, Ms Suchita Pawar & Mr. Jitendra Pagar for the Petitioner.

Ms. Nisha Mehra, AGP for the Respondent No. 1-State

Mr. A. R. Kapadnis for the Respondent Nos. 2 & 3.

CORAM : RAVINDRA V. GHUGE &
M. M. SATHAYE, JJ.

DATE : 16th OCTOBER, 2024.

P.C.:

1. In this petition, the Petitioner has not acquired the TET qualification before the cut off date, 31st March, 2019. However, the Petitioner has produced her approval order, dated 30th April, 2013.

2. On 7th September, 2023, this Court, at the Aurangabad Bench, has delivered an extensive order in *Writ Petition No. 11121 of 2023 filed by Dattatry Devidas Sonwale And Another V. State Of Maharashtra And Others*.

3. In identical set of circumstances, this Court has passed several

orders and protected the services of those candidates who have an existing approval, and who have either not acquired TET qualification or acquired it after the cutoff date.

4. In the order that we had passed in *Dattatry Devidas Sonwale (supra)*, we have recorded in paragraph Nos. 8, 9 and 10 as under:

“8. This is a Court of equity and while passing orders, this Court has to balance the equities. If the interest of the teachers are to be protected by passing a conditional or a qualified order, the interest of the State Government, which extends the salary grants also has to take into account, as the State Government insists that their salary grants should not be utilized for payment of salaries to those teachers, who do not have requisite qualification.

9. In the light of the peculiar circumstances as noted above, we find that, it would be appropriate to bind the Petitioners with an undertaking that, they would abide by the decision of the Hon'ble Supreme Court, and if it is concluded by the Hon'ble Supreme Court that, they cannot be continued in employment, they would suffer the consequences. By filing such undertaking the equities would be balanced while passing an order granting them the salaries by allotment of 'Shalarth-ID'. Needless to state that, if the Hon'ble Supreme Court concludes that the TET is mandatory, such teachers will then have to be removed from employment.

10. In view of the above, this Writ Petition is partly allowed. The impugned order dated 11/08/2023 is quashed and set aside, with the following directions :-

(a) 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.

(b) 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.

(c) Considering the above, the proposals 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.

(d) 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.

(e) 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.

5. In view of the above and subject to the directions set out in paragraph No.10 reproduced above, **this Writ Petition is partly allowed.** The Petitioner's name shall be entered in the Sharath ID, if such proposal is already submitted by the Management, subject to other compliances. The

Petitioner shall file the affidavit undertaking as per paragraph 10(a) stated above, within a period of 2 weeks. If the condition of filing of affidavit undertaking is not complied with, the Petitioner will not be entitled to any of the benefits as set out in paragraph 10 reproduced above. The benefit under this order will operate prospectively.

(M. M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)