

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5643 OF 2024

Dilipkumar G. Mishra

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Sanjeev Deore a/w Suchita Pawar and Jitendra Pagare for the
Petitioner.

Ms. P.J. Gavhane, AGP for Respondent Nos.1 to3/State.

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**CORAM : RAVINDRA V. GHUGE AND
M.M. SATHAYE, JJ.**

DATE : 16th OCTOBER, 2024

P.C. :

1. The Petitioner is an Assistant Teacher working with the Respondent No. 4 School which is stated to be run by a minority institute. The Petitioner is challenging the order of the Respondent No.2 Education Officer (Secondary), Zilla Parishad, Thane by which approval to the Petitioner's appointment against 40% grant in aid, is refused.

2. The learned Counsel for the Petitioner pointed out that the appointment of the Petitioner is already approved under orders dated 5th January, 2015, 7th July, 2014, 6th August, 2019 and 7th December, 2021

which are produced on record. The reason for refusal in the impugned order is that the Petitioner has not cleared the TET examination.

3. The learned Counsel for the Petitioner has relied upon the order passed by the Division Bench of this Court (Aurangabad Bench) in the case of *Dattatry Devidas Sonwale And Another Vs. State Of Maharashtra And Others*, Writ Petition No. 11121 of 2023, dated 7th September, 2023 wherein an identical situation is considered and a conditional order is passed, considering that the issue of TET clearance is pending in the Hon'ble Supreme Court. The learned AGP could not distinguish the present case from the said order relied upon by the Petitioner.

4. Accordingly, **this Writ Petition is disposed off** on the same terms as in 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 affidavit undertaking

that, he 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, he would abide by the same without raising any grievance.

(c) Let such affidavit undertaking be filed in this Court within 15 days from today and a copy be served upon the concerned Education Officer within the same timeline.

(d) Considering the above, the proposal of the Petitioner would be considered on its own merits, save and except, the reason that he 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 him, since he would have worked for those tenures and he would have earned his salaries for performing his duties.

(f) 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, they would be entitled for all service benefits like promotions, increments, etc.

(g) The benefit of this order will be prospective and only to the extent of the admissible salary grants.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)