

IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5895 OF 2024

Momin Munneba Siddiqua Momin
Mubeen Ahmed And Anr

...Petitioners

Versus

The State Of Maharashtra And Ors

...Respondents

Mr. Sanjeev B. Deore for the Petitioners.

Mr. S. H. Kankal, AGP for the Respondent Nos. 1 and 2.

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

DATED : 29 AUGUST 2024

P.C.:

1. Heard learned Counsel for the Petitioners, learned AGP for the Respondent Nos. 1 and 2. As per earlier order dated 24 April 2024, the Petitioners have served Respondent Nos. 3 to 6 and have filed affidavit of service as noted in office endorsement. Respondent No. 3-Education Officer, Zilla Parishad (Primary), Nashik, Respondent No. 4-Pay Department Office, Zilla Parishad (Primary), Nashik and Respondent Nos. 5 & 6-Management are duly served. None appears for them to contest the Petition.

2. The Petitioners are Assistant Teachers working with the Respondent No. 5-School run by the Respondent No. 6-Education Institute. The Petitioners are challenging the order of the Respondent

No.3-Education Officer (Primary), Zilla Parishad, Nashik dated 13 March 2024 by which proposal to enter names of the Petitioner Nos. 1 and 2 in the Shalarth ID system is returned thereby refusing to forward it to the appropriate authority.

3. Learned Counsel for the Petitioners pointed out that the appointments of the Petitioner Nos. 1 and 2 are already approved under orders dated 3 October 2017 and 4 August 2017 which are produced on record. Approval order of Petitioner No. 3 is not produced on record. The reason for refusal in the impugned order is that the Petitioners have not cleared TET examination.

4. Learned Counsel for the Petitioners have relied upon the order passed by the Division Bench of this Court (Aurangabad Bench) in Writ Petition No. 11121 of 2023 dated 7 September 2023 wherein 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. Learned AGP could not distinguish the present case from the said order relied upon by the Petitioners.

5. Accordingly, this Writ Petition is disposed of on the same terms as in Writ Petition No. 11121 of 2023.

6. Hence, the following order:

(a) The impugned order is quashed and set aside.

(b) The Petitioner Nos. 1 and 2 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.

(c) Let such affidavits of 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) After the undertakings are so filed, the Respondent No. 3 – Education Officer is directed to forward within two weeks, the proposal of the Petitioner Nos. 1 and 2 for entering names in the Shalarth ID to the Respondent No. 2-Deputy Director. Thereafter, the Respondent No. 2-Deputy Director will consider the proposal for entering names of Petitioner Nos. 1 and 2 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 6 weeks from the submission of the undertakings.

(e) If an adverse order is passed by the Hon'ble Supreme Court by which the Petitioner Nos. 1 and 2 are covered, the State Government would not recover the salaries already paid to them, since they would have worked for those tenures and they would have earned their salaries for performing their duties.

(f) In the event, the candidates like the Petitioner Nos. 1 and 2 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

7. The Petitioner No. 3 is at liberty to file separate proceedings by annexing his/her approval order/s which will be decided on its own merits.

8. Writ Petition is disposed of in above terms. No costs.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)