

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10775 OF 2024

Smt. Rashila Dongarsing Pawara

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 5/State.

Mr. Utkarsh Desai for Respondent Nos. 6 and 7.

SNEHA
NITIN
CHAVAN

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

DATE : 14 AUGUST 2024

P.C. :

. Heard learned counsel for the parties.

2. By impugned order, the Deputy Director of Education has refused to enter the name of the Petitioner in the Shalarth ID portal on the ground that the Petitioner has not passed the Teacher Eligibility Test before the cut-off date.

3. The learned counsel for the Petitioner submitted that the Petitioner's appointment was duly approved, the approval has continued to date, and the order of approval has been placed on

record. He submitted that as per the order passed by the Hon'ble Supreme Court granting status quo in a group of petitions challenging the stipulation of passing the TET examination, the service of the Petitioner and similarly situated teachers in the State of Maharashtra has been continued. He submits that, since the Petitioner is working and approval is granted, it will be unjust to deprive the Petitioner of the payment of salary and the Respondent-Management from the receipt of the grant. The learned counsel for the Petitioners has also placed before us an order passed by the Division Bench (Aurangabad Bench of this Court) in Writ Petition No. 11121 of 2023 dated 7 September 2023 wherein the Division Bench has considered the identical situation and has passed certain directions after accepting undertaking of the petitioner therein. The learned counsel for the Respondent-Management states that they are supporting the Petitioner.

4. The learned counsel for the parties are *ad idem* that this direction in the order dated 7 September 2023 would also apply to the case of the Petitioner. This order dated 7 September 2023 has been followed in various orders passed by this Court. We are not informed that any of these orders are subjected to the challenge by the State Government, and therefore, we find no impediment in disposing of the Writ Petition on the same directions as in Writ Petition No. 11123 of 2023 and hence, the following order:

- (a) The impugned order is quashed and set aside.
- (b) The Petitioner 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 Officer within the same timeline.
- (d) Considering the above, the proposal of the Petitioner would be considered for entering her name in the 'Shalarth-ID' on its own merits, save and except, the reason that she 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 teachers are covered by clause (a), the State Government would not recover the salaries already paid to the Petitioner, since she has worked for those tenures and she has

earned the salaries for performing their 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 to all service benefits like promotions, increments etc.

6. Writ Petition is disposed of in the aforesaid terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)