

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10795 OF 2024

Anita Subhash Bhangare ... Petitioner
versus
The State of Maharashtra and Others ... Respondents

....
Mr.Satyajeet A. Rajeshirke for the Petitioner.
Mr.S.B. Kalel, AGP for Respondent Nos. 1 to 3-State.
....

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

DATE : 7TH OCTOBER 2024

P.C.:

1. The Petitioner claims to be in employment prior to the introduction of the Right of Children to Free and Compulsory Education Act, 2009 (“RTE Act”). According to her, she is not required to pass the Teachers Eligibility Test (“TET”). In this backdrop, the Petitioner has prayed that her service be continued in the light of the approval having already been granted in 2013. The grievance is that the said approval was granted with effect from the date on which it was issued and not from the date on which the Petitioner was appointed.

2. The Petitioner was appointed as an Assistant Teacher vide the order of appointment dated 4th October, 2013. She has been granted approval on 24th February, 2014. She is in employment and her approval is intact. By the impugned order dated 12th June, 2024, when the institution was receiving 20% grant-in-aid, the Petitioner is refused salary benefits from the 20% grant-in-aid, only for the reason that she did not possess the TET certificate prior to the cutoff date 31st March, 2019, although the Petitioner has acquired such qualification of Central Teachers Eligibility Test (CTET), on 15th February, 2024.

3. The Aurangabad Bench of this Court has concluded in the matter of ***Sagar Gopichand Bahire Versus The State of Maharashtra and Others, Writ Petition No. 4904 of 2020***, that the TET qualification is mandatory and if a candidate does not possess the said certificate prior to the cutoff date, the employment cannot be continued and such teachers have to be terminated from service. The matter has been carried to the Hon'ble Supreme Court and status quo has been ordered on 5th July, 2021 in Special Leave to Appeal (Civ.) No. 8300 of 2021 (Priti Ravindra Warghante and others Vs. the State of Maharashtra and Others) and a group of Petitions.

4. An almost identical situation as above, was considered by the Division Bench of this Court, at the Aurangabad Bench, in Writ Petition No. 11121 of 2023 (*Dattatry Devidas Sonwale and Another Versus The State of Maharashtra Through its Principal Secretary and Others*). An order has been passed on 7th September, 2023 imposing certain conditions on such candidates. For the sake of brevity, the said conditions are reproduced hereunder :

“(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. The learned Advocate for the Petitioner submits that the Petitioner would also tender an affidavit undertaking declaring that if the Hon'ble Supreme Court holds against such teachers who have acquired certificate of TET or CTET, after the cutoff date, she would not be eligible for continuation. The Petitioner would be bound by the law laid down by the Hon'ble Supreme Court.

6. In view of the above, **this Writ Petition is partly allowed.** The impugned order is quashed and set aside in view of the conditions reproduced above. Subject to the affidavit undertaking which the Petitioner would file in this Court and tender a copy to the employer within 15 days from today, the service of the Petitioner would be continued. She would be entitled for the salary benefits as are payable for a teacher who has received approval.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)