

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

WRIT PETITION NO. 9826 OF 2024

Ansar Afzal Munniwale and another. ... Petitioners
V/s.
The State of Maharashtra and others. ... Respondents

**AND
WRIT PETITION NO. 11912 OF 2024**

Pandharinath Dilip Kanoja and others. ... Petitioners
Versus
The State of Maharashtra and others. ... Respondents

In WP/ 9826/24.
Mr. Vinod Sangvikar for the Petitioners.
Mr. S.H. Kankal, AGP for Respondent Nos. 1 and 2- State.

In WP/11912/24.
Mr. Uday P. Warunjikar a/w. Mr. Sumit S. Kate, for the Petitioners.
Mr. V.G. Badgujar, AGP for the Respondent Nos. 1 and 2.
Mr. Ajit M. Savagave for Respondent No.4.

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

DATE : 6 September 2024.

P.C. :

The Petitioners are seeking appointments as teachers.
They are challenging the decision of the Respondent, the State of

Maharashtra, and the Maharashtra State Council of Education for Examination for not allowing them to register for the teacher appointment process.

2. Writ Petition No.9826/2024 is filed by 2 Petitioners. The Petitioners in this petition have passed C-TET, Central Teachers Eligibility Test. They are aggrieved by the direction that a character certificate be obtained from the Crime Branch, Cyber Cell, investigating the TET examination issue. Accordingly, they have sought the following prayer:

“A) To hold and declare that the impugned stipulation contained in communication dtd. 15/5/2024 vis-à-vis 17/5/2024 in relation to submitting the Character Certificate from Crime Branch Cyber Cell, Pune as unsustainable and illegal as such same may kindly be quashed and set aside; and for that purpose issue necessary directions.

Writ Petition No.11912/2024 is filed by 25 Petitioners. The Petitioners in this petition have passed the C-TET examination. They are aggrieved by the letter/ circular dated 6 November 2023 stating that since the names of the candidates are in the TET (Teachers Eligibility Test) fraud list, they should not be given appointment letters unless their character is ascertained. Accordingly, they have sought the following directions:

“a) This Honourable Court be pleased to call for the record and proceeding of the letter dated 25/02/2024 issued by the respondent no. 2 and

letter dated 22/03/2024, 3/04/2024 and 17/05/2024 issued by the respondent no. 3 herein and after satisfying about the legality, validity and proprieties of the same, be pleased to quash and set aside the clause 14 of the letter dated 25/02/2024 issued by the respondent no. 2 and letter dated 22/03/2024, 3/04/2024 and 17/05/2024 issued by the respondent no. 3 by exercising the power under Article 226 of the Constitution of India, 1950.

b) This Hon'ble Court be pleased to call for the record and proceeding of the letter dated 19/04/2024 issued by the respondent no. 1 and letter dated 08/08/2024 issued by the respondent no. 5 and after satisfying about the legality, validity and proprieties of the same, be pleased to direct the respondents herein take the said letter to the logical end and further appoint the present petitioners herein respondent no. 4 & 5 within such time as this Hon'ble Court may deem fit and proper.”

The Petitioners have relied upon the decision of the Division Bench of this Court, Aurangabad Bench, in the case of *Hina Kausar Mohammad Riyaz v. The State of Maharashtra*¹. According to the Petitioners, their cases are covered by the said decision.

3. In Writ Petition No.9286/2024, the contention of the Petitioners that the order covers their cases passed in the case of *Hina Kausar Mohammad Riyaz* was noted on 18 July 2024, and the matter was adjourned for the learned AGP to take instructions as to the course of action to be adopted in the light of the decision. It was also recorded that in Contempt Petition No.31/2024 in the

¹ Writ Petition No.8534/2023 and others decided on 14 September 2023.

Aurangabad Bench, the State Government had stated that candidates would be permitted to register on the Pavitra Portal. A similar order was passed in Writ Petition No.11912/2024 on 28 August 2024 calling upon the Respondents to examine the decision of the Aurangabad Bench and if it is covered to take necessary steps. Thereupon, the petitions are placed before us.

4. No reply is filed by the Respondents. To a specific query, it is accepted by the Respondent- State that the order passed by the Aurangabad Bench in *Hina Kausar Mohammad Riyaz* has not been challenged, modified or varied. It is also an accepted position that a large number of candidates have been granted benefits of the said order. It is also admitted that the facts of the present petitions are identical to the case of *Hina Kausar Mohammad Riyaz* and other petitions.

5. In the case of *Hina Kausar Mohammad Riyaz*, the Division Bench at Aurangabad had taken up these writ petitions as a group since a common limited prayer was sought that the Petitioners be permitted to resort to the registration of self-certification/assessment. The State had taken a stand that the Petitioners, which is the case in present petitions as well, had been found guilty in a scam which took place regarding the Teachers Eligibility Test (TET) and, therefore, they are not entitled to the relief they have sought. The Division Bench negated this contention. The Division Bench observed thus:

“6. There is no dispute before us in all these matters that there are three modes/channels for becoming eligible to appear for the TAIT Exam. The first mode is, a person who has D.Ed qualification and who passes the Teachers Eligibility Test (TET) conducted by the State of Maharashtra, commonly known as the MH-TET. The second mode for being eligible to appear for the TAIT Exam is, that a candidate has D.Ed qualification and has passed the Central TET (CTET). The third mode is that the candidate must be a Graduate and must have B.Ed. Qualifications.

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8. We have not permitted such teachers involved in the scam to appear for the TAIT Exam from the channel of the TET qualification, the first channel discussed above. However, those teachers who are alleged to have been involved in the TET scam and who have passed either the C-TET or are Graduates with B.Ed qualification, are not precluded from appearing for the TAIT as there is no provisions cited before us that such candidates should be prohibited for recruitment after passing the TAIT,

.....

12. The learned AGP and the learned Advocates for the Respondents have vehemently opposed these Petitions on the ground that once the names of the Petitioners have appeared in the TET scam, no matter that they are CTET qualified or are Graduates with B.Ed. qualification, they would not be allowed to appear for the TAIT Exam or participate in the recruitment process on the basis that they have passed the TAIT Exam.

13. We find that there is no specific/express bar prescribed either under the Rules or under any GR. A

candidate who has cleanly passed the CTET or has acquired the qualification of Graduate + B.Ed., which are the two channels for being eligible for the TAIT Exam, involvement in the TET scam would not water down their results in the other two streams, since they have cleanly passed the said examinations and there is no allegation of malpractices.

14. Therefore, we conclude that if there are candidates whose names are involved in the TET scam and their performances have been cancelled and they are neither CTET nor Graduate plus B.Ed. Qualified, they would not be permitted to appear for the TAIT exam until they are exonerated and their result of the TET exam is restored, since without passing the TET, these persons cannot be eligible for the TAIT.

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19. Insofar as the CTET candidates are concerned, those who have appeared for the exams on or before the date on which the TAIT exams were conducted, they can be considered for the Pavitra portal in view of the policy of the Government, subject to their passing of the CTET. However, those who have appeared for CTET weeks or months after the TAIT Exam was held between February-March, 2023, they cannot be held eligible to appear for TAIT Exams which were held earlier, since the CTET was a requirement for appearing for the TAIT Exam”.

The Division Bench thus noted three modes for becoming eligible to appear for the Teacher Aptitude and Intelligence Test (TAIT) examination. The Division Bench found that even assuming the Petitioners have indulged in malpractices in the TET examination since they would qualify under the other two modes, they are not to

be denied relief. The Division Bench held that there was no embargo to appear for the exam even if a candidate is found guilty of malpractices in one mode of the qualification stream. The Division Bench accordingly directed that the Petitioners be permitted to resort to registration of self-certification/ assessment subject to other legal requirements.

6. The opposition of the State that those candidates involved in examination scams should not be allowed to participate in the process of selection of teachers raises a broader issue which goes beyond statutory qualifications. Teachers play a crucial role in shaping young, impressionable minds. They not only impart academic knowledge, but instill fundamental values of morality, ethics, and civic sense. These values are the very foundation of an orderly society. When an individual engages in cheating in an examination or in a fraudulent scheme such conduct may demonstrate a lack of moral conviction and an absence of the essential value system required to nurture and educate future citizens. When such a person seeks a teaching position, it raises serious concerns. This aspect is especially important when writ jurisdiction is invoked. Broad societal considerations are also relevant when a petitioner calls a superior court to exercise its writ jurisdiction. The mere absence of a legal embargo for a course of action does not necessarily mean that relief under writ jurisdiction should automatically be extended in favour of the petitioner. Writ

jurisdiction is a discretionary remedy. The superior court can refuse to extend its equity jurisdiction in a given case. There is a distinction between legal qualifications and the broader moral and ethical implications of appointing individuals who may lack the integrity necessary to fulfill the responsibilities of a teacher. The impact on society, especially on young minds, has to be at the forefront of any judicial consideration. There is one more angle to the issue. It is common knowledge that there are a large number of applicants and limited posts, and there is competition for the posts. Therefore, the candidates who are not tainted can make a grievance that they have been asked to unfairly compete with those who are tainted.

7. That having been noted, we however have to be mindful of another principle, which is of maintaining judicial consistency. As stated earlier, the State has not challenged the decision in the case of *Hina Kausar Mohammad Riyaz* and, in fact, has given effect to a large number of similarly situated candidates and no other candidate before us a grievance about discrimination as above. In this state of affairs, as a matter of judicial propriety, we will follow the decision in the case of *Hina Kausar Mohammad Riyaz*.

8. The Respondents are directed to examine and process the cases of each of the petitioners in light of the order passed in the case of *Hina Kausar Mohammad Riyaz* and take necessary steps as directed in the said order. This direction is restricted to the Petitioners before us.

9. The office of the Government Pleader will place a copy of this order before the Principal Secretary, School Education Department, State of Maharashtra, to consider our observations in paragraph 6 above in respect of the issues involved and to take appropriate decisions.

10. Both writ petitions are disposed of in the above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)