

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7398 OF 2024

Utkarsh Devidas Bachhav & Ors. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 13954 OF 2024

Shaikh Naushad Rashid & Anr. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 15452 OF 2023

Firoj Ibulal Tamboli & Ors. ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 5010 OF 2024

Vijayalakshmi Ashok Shinde & Anr. ...Petitioners

Versus

The State Of Maharashtra & Ors. ...Respondents

Mr. Sanjeev Deore a/w Ms. Suchita Pawar, Mr. Jitendra Pagare,
Advocate for the Petitioner in all Petitions.

Dr. Birendra Saraf, Advocate General a/w Mr. P.P. Kakade, Addl.
G.P., Mr. Siddheshwar Kalel, AGP for Respondent-State in
WP/7398/2024.

Mr. Ashwin Kapadnis, Advocate for Respondent/ZP Nashik in
WP/7398/2024, WP/13954/2024 & WP/5010/2024.

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Mr. Subhash Gutte, Advocate for Respondent No.7 in WP/7398/2024.

Ms. Nisha Mehra, AGP for Respondent No.1 & 2 in WP/13954/2024.

Mr. Siddheshwar Kalel, AGP for Respondent-State in WP/15452/2023.

Mr. P.P. Kakade, Addl. G.P. a/w Mr. V.M Mali, AGP for Respondent Nos.1 to 3 in WP/5010/2024.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 25th NOVEMBER, 2024

PER COURT :-

1. We have considered the submissions of the learned Senior Advocates and the learned Advocates as well as the learned Advocate General, appearing for the respective sides.

2. The submissions of the parties are based on the orders passed by this Court on 7th September, 2023 in Writ Petition No.11121 of 2023 (*Dattatry Devidas Sonwale And Another V/s. The State of Maharashtra Through Its Principal Secretary And Others*), at Aurangabad Bench. The order dated 10th August, 2023, passed in Writ Petition No.9944 of 2023, by the Coordinate Bench at Aurangabad, has been referred to. We have recently passed an order

dated 12th November, 2024 in Writ Petition No.16423 of 2023 and other connected matters (*Stephie Sushant Ransing Alias Stephie Sebastian John V/s. The State of Maharashtra and Ors.*).

3. In view of the above, we find that in such cases before us, the following categories emerge from the record:-

(A) Candidates who have passed the Teacher Eligibility Test (TET)/Central Teacher Eligibility Test (CTET) after the cut-off date 31st March, 2019.

(B) Candidates falling in the Category 'A', who have been granted approval, but are yet to receive allocation of Shalarth-ID.

(C) Candidates who have not cleared the TET/CTET, were appointed by a Management in an Institution which had no salary grants and such candidates were granted approval to their appointments on no grant basis by the Education Officers.

(D) Candidates who do not have TET/CTET and whose appointments are on no grant basis establishments and who have not been granted approvals by the Education Officers or the Competent Authority.

4. To avoid repetition, we have considered the orders passed in *Dattatry Devidas Sonwale And Another* (Supra) and *Stephie Sushant Ransing* (Supra). The said orders are explicit insofar as imposition of conditions on candidates falling in Categories 'A', 'B' and 'C' as above. All such candidates have been granted conditional Shalarth-ID for the reasons recorded in the said two orders. We have also recorded that the salaries, to the extent of the percentage of salary grants to be paid by the Government, would not be recovered from such candidates since they have earned their salaries by working. It goes without saying that the Managements who have appointed the teachers without the TET/CTET qualifications, would be liable to pay the remainder portion of the salary as per the approved scales, over and above the percentage of salary grants extended by the State Government.

5. There have been various orders passed by this Court at the Principal Seat, the Nagpur Bench and the Aurangabad Bench, whereby directions have been issued to consider the proposals for approvals by ignoring the lack of TET/CTET qualifications. One such order is passed by the Coordinate Bench at Aurangabad, dated

10th August, 2023 in Writ Petition No.9944 of 2023. This Court had observed in Paragraph No.3 in the Order dated 7th September, 2023, passed in *Dattatry Devidas Sonwale And Another* (Supra), that the Judgment of this Court dated 11th June, 2021, delivered in Writ Petition No.4904 of 2020 (*Sagar Gopichand Bahire V/s. State of Maharashtra and Others*), was not cited in before the Coordinate Bench which passed the order dated 10.08.2023.

6. In view of the above, we deem it appropriate to follow the course set out in the order dated 12th November, 2024 in *Stephie Sushant Ransing* (Supra), to the extent of Categories ‘A’, ‘B’ and ‘C’ recorded in Paragraph No.3, hereinabove. Insofar as the candidates falling in Category ‘D’ set out above, keeping in view the law laid down by the Full Bench of this Court in *St.Ulai High School V/s. Devendraprasad Jagannath Singh, 2007 (1) Mh.L.J. 597*, the services of such Employees would not be terminated for lack of approval and they would continue to draw salary from the coffers of the Employer/Management. Needless to state, the conditions set out in the Paragraph No.10 in *Dattatry Devidas Sonwale And Another* (Supra) and the directions issued by this Court in Paragraph Nos.11, 12, 13 and 14 in the order dated 12th

November, 2024 in *Stephie Sushant Ransing* (Supra), would be applicable to all these Petitioners falling in Categories ‘A’, ‘B’ and ‘C’.

7. While disposing off these Petitions, we are recording the statement of the learned Advocate General that, it is one thing to say that the salaries paid from the salary grants extended by the Government to the Employees falling in Categories ‘A’, ‘B’ and ‘C’, should not be recovered because they have worked. However, since the Employers have appointed candidates without acquisition of the TET certificate and have received approvals when the candidates were appointed on no grant basis, if such candidates are being paid the salaries to the extent of the proportion of the grants extended by the State Government, the right to recover such amounts from the Management, be left open. We are, therefore, leaving this issue open to be considered in an appropriate case.

8. In view of the above, all these **Writ Petitions are disposed off.**

9. Insofar as the pending matters on the file of this Court involving similar issues (which are not on board today), we call upon the learned AGP to prepare a compilation of orders passed in such matters at the Principal Seat, the Nagpur Bench and the Aurangabad Bench and prepare a synoptical note to be tendered to this Court in the matters, which would be listed before the Court in the coming future.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)