

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

WRIT PETITION NO. 17109 OF 2024

Archana Satish Mali & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Laxman S. Deshmukh, Advocate for the Petitioners.

Mr. V.G. Badgujar, AGP for Respondent Nos.1 to 2/State.

Mr. Pankaj Deokar, Advocate for Respondent No.3.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 5th DECEMBER, 2024

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P.C. :-

1. It is undisputed that all the Petitioners are identically placed. They have not passed the Teacher Eligibility Test (T.E.T.), till today. However, approval to their appointments has been granted.

2. In an order recently passed by this Court, dated 25th November, 2024, in Writ Petition No.7398 of 2024 (**Utkarsh Devidas Bachhav & Ors. V/s. The State of Maharashtra & Ors.**) and

other group of Petitions, we have observed in Paragraph Nos.2 to 7,

as under :

“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."

In view of the above, the Petitioners would fall in Category 'C'.

3. **This Writ Petition is partly allowed.** The Communication/Letter dated 11th September, 2024, is hereby quashed and set aside. For the reasons set out in the reproduced order, the conditions set out in Paragraph Nos.10 in the case of

Dattatry Devidas Sonwale And Another (Supra), are made applicable to the Petitioners and a conditional Shalarth-ID would be granted to these Petitioners within a period of 30 days from today. This order would operate prospectively.

4. Needless to state, if the Hon'ble Supreme Court delivers a Judgment on the issue of the mandate of T.E.T, the conclusions drawn would be squarely applicable to the Petitioners.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)