

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

(Sr. No. 30) WRIT PETITION NO. 17292 OF 2024

Mrs. Sonali Waghchoure. ... Petitioner
Versus
Education Officer, Education Department
(Secondary Section & Ors. ... Respondents.

**WITH
(Sr. No. 39) WRIT PETITION NO. 17310 OF 2024**

Sayyed Akif Afroz Asif Ali & Ors. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents.

**WITH
(Sr. No. 98) WRIT PETITION NO. 5439 OF 2017**

Priyanka Sureshkumar Rai & anr. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents.

**WITH
(Sr. No. 98) WRIT PETITION NO. 5452 OF 2017**

Mrs. Ankita Pankajkumar Pandey & Anr. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents.

**WITH
(Sr. No. 217) WRIT PETITION NO. 5646 OF 2024**

Archana Bandu Divekar. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents.

Ms. Pooja G. Malik, for the Petitioner in WP/17292/2024.

Mr. M.M. Pable, AGP for Respondent Nos. 1 to 3/State in WP/17292/2024.

Mr. Sanjeev Kumar Bapu Deore, for the Petitioner in WP/17310/2024.

Mr. S.H. Kankal, AGP for Respondent/State in WP/17310/2024.

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Vinayak R. Kumbhar, Mr. Rajendra B. Khaire, Mr. Aniket S. Phapale i/b. Mr. Mandar Bagkar, for the Petitioner in WP/5438/2017 & WP/5452/2024.

Mr. Suresh M. Kamble, for Respondent No. 2 in WP/5438/2017 & WP/5452/2024.

Mr. S.B. Kale, AGP for Respondent/State in WP/5438/2017 & WP/5452/2024.

Mr. Saurabh Pakale a/w. Mr. Nilesh Desai, Ms. Netra Tembe, i/b. Ms. Padmaja Malgaonkar, for the Petitioner in WP/5646/2024.

Smt. T.J. Kapre, AGP, for Respondent/ State in WP/5646/2024.

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

DATE : 2nd DECEMBER, 2024

P.C. :

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 the 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 Writ Petition No. 7398 of 2024 and group of cases (***Utkarsh Devidas Bachhav & Ors. v/s/ The State of Maharashtra & Ors.***), we had recorded in paragraph no.3 of our order dated 25th November, 2024 as under :

“(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. Considering the submissions of the learned Senior Advocate Shri Bandiwadekar, we are adding one more category which can be considered until the decision of the Hon'ble Supreme Court, as under :

(E) The candidates who are working in minority institutions, which have salary grants in aid and though the appointed candidates do not have TET qualification, approvals have been granted to their appointment as Shikshan Sevak.

5. In Writ Petition No. 17292 of 2024, the Petitioner has acquired the TET qualification after 31st March, 2019. She would fall in category "A" reproduced above.

6. Hence, the impugned order which is passed only because the Petitioner does not have the TET qualification, stands set aside and the **Writ Petition stands partly allowed**. She would be granted

conditional Approval and the Shalarth ID as she is in employment since 2014 and has passed the TET now.

7. In Writ Petition No. 17310 of 2024, all these Petitioners do not have TET/CTET qualification. However, they have been granted approvals on 'no grant' basis. These Petitioners would fall under category "C". Hence, the **Writ Petition is partly allowed**. We direct the Shalarth I.D. to be allocated to these Petitioners and this order would be applicable, prospectively.

8. In Writ Petition No. 5439 of 2017 and Writ Petition No. 5452 of 2017, we have heard the learned Advocates for the respective sides. These Petitioners fall in category "E", which is set out herein above. The approval has been granted. The Institute is on aided basis and is a minority institution. Shalarth I.D. is rejected on the ground that the Petitioners do not have TET qualification. Since they fall in category "E", **both these Writ Petitions are partly allowed**. The impugned order is quashed and set aside and both shall be granted Shalarth I.D. subject to the further conditions that we have imposed in the light of the Judgment delivered in Utkarsh Devidas Bachhav & Ors.(Supra).

9. In Writ Petition No. 5646 of 2024, the Petitioner has secured the TET qualification after cut of date 31st March, 2019. Approval has been granted. Shalarth I.D. is refused because he does not have TET qualification. He would fall in category “A” reproduced above. Hence, **the Writ Petition is partly allowed**. The impugned order is set aside. Conditional Shalarth I.D. shall be allocated to the Petitioner, subject to the conditions set out in this order.

10. In so far as directions/conditions applicable to such Petitioners as above, to avoid repetition, we are only referring to 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.

11. In view of the above, we deem it appropriate to follow the course adopted 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, herein above. 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.

12. Needless to state, the conditions set out in 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', whose Petitions have been allowed in view of the orders set out in the fore going paragraphs.

13. The statement of the learned Advocate General as was record in paragraph 7 in the order passed in ***Utkarsh Devidas Bachhav*** (Supra), would be equally applicable to all these cases in the light of our observations set out therein. For brevity, we are reproducing the paragraph 7 hereunder :

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.

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

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)

ARUNA
SANDEEP
TALWALKAR

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