

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 872 OF 2024

Yogita Pritam Shejale ... Petitioner
versus
State of Maharashtra and Others ... Respondents

...
Mr.Rahul S. Kadam for the Petitioner.
Smt.Uma Palsuledesai, AGP for Respondent No.1-State.
Mr.Shivprasad D.Borade for Respondent Nos. 2 to 4.
...

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

DATE :- 11TH NOVEMBER, 2024

PC:-

1. The Petitioner has admittedly acquired Central Teacher Eligibility Test (CTET) certificate, on 30th July, 2019 after the examination was held by the Central Board of Secondary Education, Delhi on 7th July 2019.

2. Admittedly, the Division Bench of this Court [Coram : S. V. Gangapurwala (as His Lordship then was) and Shrikant D. Kulkarni, JJ.], vide judgment dated 11th June, 2021 delivered in Writ Petition No.4904/2020 (Sagar Gopichand

Bahire Vs. State of Maharashtra and others) and a group of petitions, concluded that, if a candidate does not have the TET qualification prior to 31st March, 2019 such candidates cannot be retained in service and the Government will not be liable to pay their salaries. Since those Petitioners desired to approach the Hon'ble Supreme Court, this Court protected the status of the teachers as on date by directing status-quo to be maintained. The matter has travelled to the Hon'ble Supreme Court in Special Leave to Appeal (Civ.) No.8300/2021 (Priti Ravindra Warghante and others Vs. the State of Maharashtra and others) and a group of petitions, and the status-quo order has been continued.

3. The learned Advocate for the Petitioner points out the order passed by this Court (Coram : Mangesh S. Patil and Shailesh P. Brahme, JJ.), dated 10th August, 2023, in Writ Petition No.9944/2023. Paragraph Nos.1 to 4 of the said order, read as under :-

“1. The petitioner is challenging the order passed by the respondent no.4/Education Officer (Secondary), Aurangabad, refusing to grant permission for including his name in the online portal for disbursement of salary on the ground that he had not passed Teacher Eligibility Test examination (T.E.T.)

as per the Government decision dated 13.02.2013.

2. It is common knowledge that the subject pertaining to the T.E.T. qualification is already sub-judice before the Supreme Court which has directed status-quo to be maintained.

3. In the light of above, we quash and set aside the impugned order, direct the respondent no.4 to pass order afresh, which shall not be by resorting to the ground which has been mentioned in the impugned communication.

4. The decision shall be taken as expeditiously as possible and in any case within six weeks. This order shall be subject to the final outcome of the matter before the Supreme Court.”

4. It is apparent that the judgment of this Court, dated 11th June, 2021 in Sagar Gopichand Bahire (supra), was not brought to the notice of the Co-ordinate Bench of this Court. Status-quo was ordered and the Hon’ble Supreme Court has continued the said order.

5. Nevertheless, the predicament before us is, as to how far this Petitioner can survive with meager salaries or no salary at all, only on the ground that she is not TET qualified. This Court concluded that TET under the Right of Children to Free and Compulsory Education Act, 2009 (for short ‘the 2009

Act') is mandatory. The Hon'ble Supreme Court would now decide the issue. Until then, all the teachers are protected and the status-quo in their employment is maintained.

6. There are cases, wherein the teachers before us contend that the Management did not pay them at all and they are working without salaries. Unless their names are included in the 'Shalarth Pranali', they are not entitled for salary through the grants may be available.

7. The learned AGP has strenuously opposed this Petition, contending that such petitions are likely to open a pandora's box. Those teachers, who are not TET qualified, would be approaching this Court for seeking orders for entering their names in the 'Shalarth Pranali'. They would draw salary scales as are available, through the salary grants extended by the Government, which are available only to those teachers, who have requisite qualification. She raises a dispute of salary grants to the teachers, who do not have requisite qualifications. He reminds us of the judgment delivered by this Court in Sagar Gopichand Bahire (supra), wherein this Court has finally

concluded that, the teachers without TET need to be terminated. He further submits that, since the Hon'ble Supreme Court had directed status-quo to be maintained, it would not mean that, further service benefits can be granted to the teachers, who do not have the TET qualification.

9. This is a Court of equity and while passing orders, this Court has to balance the equities. If the interest of the teachers are to be protected by passing a conditional or a qualified order, the interest of the State Government, which extends the salary grants also has to take into account, as the State Government insists that their salary grants should not be utilized for payment of salaries to those teachers, who do not have requisite qualification.

10. In the light of the peculiar circumstances as noted above, we find that, it would be appropriate to bind the Petitioner to an undertaking that, she would abide by the decision of the Hon'ble Supreme Court, and if it is concluded by the Hon'ble Supreme Court that, such employees cannot be continued in employment, they would suffer the consequences.

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By filing an affidavit undertaking, the equities would be balanced while granting them the conditional 'Shalarth-ID'.

11. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 18th September, 2023 is quashed and set aside, with the following directions :-

(a) The Petitioner would tender an affidavit undertaking that, she 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 31st March, 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 proposal of the Petitioner would be considered for entering her name in the 'Shalarth-ID' on its own merits, save and except, the reason that she is not TET qualified. Needless to state, the proposal 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 Petitioner 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.

(ASHWIN D. BHOBE, J.) (RAVINDRA V. GHUGE, J.)