



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 5065 OF 2024

(Prakash Motesing Bassi ..vs.. State of Maharashtra, through its Secretary, Mumbai and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.N. Shende, Counsel for the petitioner,
Mr. S.M. Ukey, Addl.G.P. for respondent Nos.1 and 2.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 29-08-2024

Heard Mr. P.N. Shende, learned Counsel appearing
for the petitioner.

2. According to the petitioner, he holds a qualification as a trained Primary Teacher and was accordingly appointed on 17-8-2023, who worked as a Primary Teacher with respondent No.3-Ashramshala.

3. The proposal submitted for grant of approval came to be rejected vide order dated 15-2-2024 on the ground that the petitioner has failed to clear the Teacher Eligibility Test (TET) which is compulsory under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

4. According to Mr. P.N. Shende, learned Counsel, the petitioner is willing to clear the said examination viz. TET, provided he is given chances to that effect. Drawing support from the order of this Court delivered on 16-3-2022 in Writ Petition No.3022/2020, he would urge that the judicial discipline warrants this Court must follow the order dated 16-3-2022 as the issue is subjudice before the Apex Court.

5. As against above, Mr. S.M. Ukey, learned Additional Government Pleader would urge that the petitioner is recently appointed contrary to the qualification prescribed as he has not cleared the TET. That being so, the petition is liable to be dismissed.

6. We have considered the rival claims of the parties.

7. It is not in dispute that while the petitioner submitted his candidature, prescribed qualification required was that the candidate must clear the TET as provided under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

8. The State Government on earlier occasion has granted extension to the candidate and the said extension period is already over.

9. On the date the advertisement was issued pursuant to which the petitioner was appointed, it was necessary that the petitioner must clear TET and to hold such qualification.

10. Merely because the issue of the TET being compulsory or not, is subjudice before the Apex Court, that by itself, in our opinion, would not give leverage to the petitioner to claim protection of services, particularly when he was appointed on the post of Primary Teacher without holding the said qualification.

11. In that view of the matter, we deem it appropriate to dismiss the petition. However, we make it clear that in case the order of the Apex Court is in favour of the case of the petitioner as sought to be canvassed, he has liberty to approach before this Court afresh.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)