



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8367 OF 2024

Yasmeen Begam Mohammed Rasheed ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. V.S. Panpatte, Advocate for petitioner
Mr. P.K. Lakhotiya, A.G.P. for State
Mr. I.D. Maniyar, Advocate for R.No.5 & 6
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 28th JULY, 2025

ORDER :

Heard. The petitioner was initially appointed as Shikshan Sevak way back on 7/10/2013 and thereafter as Assistant Teacher. The Education Officer (Secondary), Zilla Parishad, Nanded granted approval to the appointment of the petitioner. Admittedly, the petitioner did not complete Teachers' Eligibility Test (TET) either on the date of her appointment and even till date. The petitioner was paid salary regularly till

December 2019. However, in January 2020, her salary bills have not been cleared for want of her to have not completed the TET.

2. The learned A.G.P. has strong objection to allow the petition. In the alternative, he submits that, the petitioner may be directed to submit undertaking as has been directed in Writ Petition No.11121/2023, vide order dated 7/9/2023.

3. It is not in dispute that the matter is subjudice before the Apex Court, wherein the issue as to completing Tet within a time-frame is there. In number of similar petitions, this Court issued directions to release withheld salary and pay the current salary to the petitioners on conditions stated hereinbelow :-

- (a) The Petitioners would tender an undertaking that, they 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 31/03/2019, 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 proposals of the Petitioners would be considered for entering their names in the 'Shalarth-ID' on their own merits, save and except, the reason that they are not TET qualified. Needless to state, the proposals 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 Petitioners 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.

4. Proviso to Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 reads thus :

“Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years:

Provided further that every teacher appointed or

in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017).

5. Since the issue is subjudice before the Apex Court and the petitioner is rendering her services, the petitioner needs to be paid salary for the job rendered. The petitioner is ready to furnish undertaking as was directed to be furnished in other writ Petitions. We, therefore, allow the Writ Petition in terms of prayer clause (B) on condition of undertaking to be furnished by the petitioner to the following effect :

- (a) The Petitioner would tender an 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 31/03/2019, 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 submission of the undertaking.

- (d) If an adverse order is passed by the Hon'ble Supreme Court by which the petitioner is covered by clause (a), the State Government would not recover the salary already paid to her, since she has worked for the tenure and she has earned her salary for performing her duties.
- (e) In the event, the candidates like the Petitioners 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.

6. Writ Petition stands disposed of.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

FMPathan/-