

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

WRIT PETITION NO. 5857 OF 2025

Uzma Sadaf Zainuddin Shaikh & Ors. ... Petitioners.

Versus

State of Maharashtra & Ors. ... Respondents.

Dr. U.P. Warunjikar i/b. Mr. Sumit S. Kate, Advocate for the
Petitioners.

Mr. Abhijeet Naik, AGP for Respondent /State.

Mr. Abhijit P. Kulkarni a/w. Mr. Abhishek Roy, Ms. Sweta Shah, Mr.
Krushna Jaybhay, Mr. Gourav Shahane, Mr. Shreyas Zarkar, Advocate
for Respondent nos. 4 and 5 - PMC.

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

DATE : 30th APRIL, 2025

P.C. :

1. We have considered the submissions of the learned
Advocate for the Petitioners, the learned Additional G.P. and the learned
Advocate for the Pune Municipal Corporation. With their assistance, we
have gone through a recently delivered order dated 25th March, 2025 by
this Court in Writ Petition No.1269 of 2025 (*Pandharinath Dilip Kanojia
& Ors. versus The State of Maharashtra & Ors.*).

2. We have also adverted to the judgment delivered by this Court at Aurangabad Bench in **Hina Kausar Mohammad Riyaz & Others versus The State of Maharashtra & Ors.**, Writ Petition No.8534 of 2023 and group of cases, decided by order dated 14th September, 2023. For the sake of clarity, we record that there were three modes for a candidate to approach the TAIT. One mode was of passing TET, the second was after passing C-TET and the third was on acquiring Graduate plus B.Ed. Education.

3. In *Pandharinath Dilip Kanojia & Ors.* (supra), we concluded that if any candidate is selected on the basis of passing the TET and if the said TET exam result is cancelled on account of the name of the concerned candidate figuring in the 2019 TET exam result scam (wherein lesser marks actually scored were exaggerated to show higher marks in the online declaration of the results so as to enable such candidates to overcome the qualifying bar), such candidates cannot be considered if they had appeared for TAIT based on such TET result, primarily for the reason that the TET result of 2019 with regard to such 7500 candidates have been cancelled and their TET marks/marks memo have been neutralised.

4. However, in the case of candidates who have appeared for

the TAIT on the basis of passing the C-TET or on the basis of Graduate plus B.Ed. qualifications, such cases were to be considered independently by the prospective employers. In short, standing on the plank of C-TET or Graduate plus B.Ed., the candidature could be considered for TAIT.

5. We have perused the recently delivered judgment of the Hon'ble Supreme Court dated 3rd April, 2025 in a long list of appeals bearing Special Leave Petition (Civil) No.9586 of 2024 [*State of West Bengal versus Baishakhi Bhattacharyya (Chatterjee) and Others*], 2025 *SCC OnLine SC 719*. Paragraph Nos.19, 45, 46 and 47 of the said judgment, read as under:

“19. The following principles emerge from the aforesaid discussion:

- When an in-depth factual inquiry reveals systemic irregularities, such as malaise or fraud, that undermine the integrity of the entire selection process, the result should be cancelled in its entirety. However, if and when possible, segregation of tainted and untainted candidates should be done in consonance with fairness and equity.*
- The decision to cancel the selection en masse must be based on the satisfaction derived from sufficient material collected through a fair and thorough investigation. It is not necessary for the material collected to conclusively prove malpractice beyond a reasonable doubt. The standard of evidence should be reasonable certainty of systemic malaise. The probability test is applicable.*
- Despite the inconvenience caused to untainted*

candidates, when broad and deep manipulation in the selection process is proven, due weightage has to be given to maintaining the purity of the selection process.

- *Individual notice and hearing may not be necessary in all cases for practical reasons when the facts establish that the entire selection process is vitiated with illegalities at a large scale.”*

“45. The last question relates to the relief and whether it requires any modification. We find no valid ground or reason to interfere with the direction of the High Court that the services of tainted candidates, where appointed, must be terminated, and they should be required to refund any salaries/payments received. Since their appointments were the result of fraud, this amounts to cheating. Therefore, we see no justification to alter this direction.”

“46. For candidates not specifically found to be tainted, the entire selection process has been rightly declared null and void due to the egregious violations and illegalities, which violated Articles 14 and 16 of the Constitution. As such, the appointments of these candidates are cancelled. However, candidates who are already employed need not be asked to refund or restitute any payments made to them. However, their services will be terminated. Furthermore, no candidate can be appointed once the entire examination process and results have been declared void.”

“47. Some of the appointed candidates who do not fall within the category of tainted candidates may have previously worked in different departments of the State Government or with autonomous bodies, etc. In such cases, although their appointments are cancelled, these candidates will have the right to apply to their previous departments or autonomous bodies to continue in service with those entities. These applications must be processed by the respective government departments or bodies within three months, and the candidates will be allowed to resume their positions. Further, the period between the termination of their

previous appointment and their rejoining will not be considered a break in service. Their seniority and other entitlements will be preserved, and they will be eligible for increments. However, for the period they were employed under the disputed appointment, no wages will be paid by the State Government or autonomous bodies. Further, if required and necessary, supernumerary posts may be created for persons appointed in the interregnum.”

6. As such, considering that the Petitioners before us are standing on the plank of the C-TET qualification, the prospective employer could consider their cases provided the police reports with regard to their antecedents or character, reveal that they are not tainted. Needless to state, in the event, these Petitioners are convicted or are held guilty of having indulged in examination malpractices in relation to the 2019 TET exam result scam, an employer would be at liberty to initiate appropriate action against such candidates.

7. In view of the above, without expressing any opinion as regards the individual cases of these Petitioners, **this Writ Petition is disposed off** with the prospective Employer being at liberty to consider each of these cases and if he finds that they have approached with clean hands, then an appropriate decision on their appointments may be arrived at, as expeditiously as possible.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)