

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5918 OF 2025

Raza Ullah Khan Zafar Ullah Khan ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Shrirang Katneshwarkar a/w Mr. Sandeep Gupta, Advocate for the Petitioner.

Mr. Vikas Mali, AGP for Respondent Nos.1 to 3 & 6/State.

Mr. Drupad Patil a/w Mr. Santosh P., Advocate for Respondent Nos.4 & 5/Municipal Corporation.

CORAM : RAVINDRA V. GHUGE
&
M.M. SATHAYE, JJ.

DATE : 9th JUNE, 2025

P.C. :-

1. The learned Advocate representing the Corporation has placed an affidavit in reply on record, dated 6th June, 2025 (Page Nos.100 to 113). We have perused the contents of the affidavit in reply.

2. It is obvious that the Petitioner has still not been convicted for any offence in connection with the 2019 TET exam

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result scam. His name is not mentioned in the First Information Report with regard to the 2019-TET exam result scam. However, his name figures in the list of about 7500 examinees whose marks have been inflated and the results have been botched.

3. We have considered the submissions of the learned Advocate for the Petitioner, the learned AGP and the learned Advocate for the Municipal Corporation. With their assistance, we have gone through a recently delivered order dated 25th March, 2025 in Writ Petition No.1269 of 2025 (*Pandharinath Dilip Kanojia & Ors. V/s. The State of Maharashtra & Ors.*).

4. We have also adverted to the Judgment delivered by this Court at Aurangabad Bench in *Hina Kausar Mohammad Riyaz & Others V/s. 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.

5. 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.

6. 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.

7. 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 V/s. 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.”

8. As such, considering that the Petitioner before us is standing on the plank of the C-TET qualification, the prospective

employer could consider his case provided the police report with regard to his antecedents or character, reveal that he is not tainted. Needless to state, in the event, the Petitioner is convicted or is held guilty of having indulged in examination malpractices in relation to the 2019 TET exam result scam, the prospective employer would be at liberty to initiate appropriate action against such candidate.

9. In view of the above, without expressing any opinion as regards the case of this Petitioner, this **Writ Petition is disposed off** with the prospective Employer being at liberty to consider the case of the Petitioner and if he finds that he has approached with clean hands, then an appropriate decision on his appointment may be arrived at, as expeditiously as possible.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)