



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6620 OF 2024

- 1) Magasvargiya Sarvoday Bahuudeshiya Shikshan Prashikshan Sanstha, Wardha bearing PTR No.F-327 (Wardha) having its registered office at C/o Arvind Tulsiram Shete Plot No.2, Milk Scheme Society, G.P.O. Square, Nagpur – 440001 through its Authorized signatory
- 2) Nishtai Wankhede Upper Primary School, Khamla Nagpur – 440025 through its Headmistress
- 3) Shri Adarsh Sunil Hatwar age : 28 years, Occ : Service, R/o Plot No.32, Telephone Nagar, Narsala Road, Dighori, Nagpur – 440034

.. **Petitioners**

Versus

- 1) State of Maharashtra Through its secretary, Department of School Education and Sports, Mantralaya, Mumbai – 32
- 2) The Deputy Director of Education, Nagpur Division, Nagpur
- 3) The Education Officer (Primary) Zilla Parishad, Nagpur,

.. **Respondents**

Mr. Bernard John, Advocate for Petitioners.

Mr. S.V.Narale, AGP for respondent Nos. 1 and 2.

Mr. Majid Shaikh, Advocate for Respondent No.3.

CORAM : **AVINASH G. GHAROTE AND**
ABHAY J. MANTRI, JJ.

DATE : **MARCH 04, 2025**

JUDGMENT (Per : Abhay J. Mantri J.)

Heard. **Rule.** Heard finally, with the consent of the learned counsel appearing for the parties.

(2) The petitioners challenging the decision of respondent No.2, Deputy Director of Education, Nagpur, communicated vide letter dated 12/13.09.2024 (annex.P-5), thereby refusing to enter the names of petitioner no 3, in Shalarth Pranali and to issue Shalarth ID. Also, they seek direction against respondent No.3, the education officer, to forward the proposal of petitioner No.3 for issuance of Shalarth ID.

(3) Petitioner No.1 is an Education Society recognized as a Religious Minority Educational Institution (Buddhist) that runs and administers Petitioner No.2 School. It is entitled to protection under Article 30 of the Constitution of India. Petitioner No. 3 holds a B.Sc., B.Ed. qualification. On 01/11/2022, after following due process of law, the petitioner was appointed to the post of 'Assistant Teacher' on the granted basis with petitioner No.2 School. The respondent No.3

Education Officer granted approval to the appointment of petitioner No.3 vide approval order dated 16.07.2024.

(4) Thereafter, on 18.07.2024, respondent No.3, Education Officer, forwarded a proposal to respondent No.2, Deputy Director of Education, to enter the name of petitioner No.3 in Shalarth Pranali and to issue a Shalarath ID to him. However, respondent No.2 Deputy Director, by communication dated 13.09.2024, informed respondent No.3- Education Officer about the refusal to enter the name of petitioner No.3 in Shalarth Pranali and to issue a Shalarath ID as petitioner No. 3 failed to comply with the discrepancies mentioned in the letter and returned the proposal. The petitioners further submitted that vide communication dated 24.09.2024, they have complied with the discrepancies mentioned in the letter dated 13.09.2024. However, no action has been taken by the Office of respondent No.2 for issuing Shalarth ID to petitioner No.3. Therefore, the petitioners approached this Court.

(5) Mr. Bernard, learned counsel for the petitioners, submitted that the issue involved in this petition is covered by the decisions of this Court in the following cases :

1. Saudagar Farheen Alim and another vs. State of Maharashtra and another Writ Petition No.623/2024 decided on 27/06/2024. (Aurangabad Bench)

2. *The Shikshan Prasarak Mandal and others vs. The State of Maharashtra and others Writ Petition No.3414/2024, decided on 02/04/2024. (Aurangabad Bench)*

3. *The Society of Sisters of St.Joseph's Nagpur through its Secretary and others vs. The State of Maharashtra Writ Petition No.6523/2023, decided on 23/02/2024.*

Learned counsel for the petitioners, relying upon the decision in Writ Petition No.623/2024 decided on 27.06.2024, submitted that the Aurangabad Bench of this Court had directed the Education Officer to reconsider the proposal of petitioner No. 1 therein for entering his name in the '*Shalarth Pranali*' without insisting on the TET qualification. He further submits that in Writ Petition No.6523/2023, this Court has relaxed the condition of TET qualification subject to filing an Affidavit/Undertaking by the petitioners in this Court as well as copies to the Education Officer and the Management to the effect that if the Hon'ble Supreme Court concludes that the TET qualification is mandatory even to minority institutions and the petitioners appointment would be deemed to be illegal, the petitioners would be willing to suffer the consequences.

(6) As against this, Mr. Narale, learned Assistant Government Pleader, opposes the petitioners' claim on the ground that petitioner No.3 did not possess the 'TET qualification'. So, the appointment of petitioner No.3 by petitioner No.1 and approval granted by respondent No.3 is contrary to the provisions of the Government Resolutions dated

13.02.2013, 23.08.2013 and 24.08.2018. The Petitioners failed to comply with the discrepancies pointed out to them. So, the proposal was rejected and returned to respondent No. 3, and a copy was supplied to petitioner No.2.

(7) Learned Assistant Government Pleader further submits that the petitioners relied upon the decision in Writ Petition No.6523/2023 stating that this Court has relaxed TET qualification for the appointment made in Minority Educational Institution, but in fact, this Court has directed the petitioners to tender an affidavit undertaking to the effect that if the Hon'ble Supreme Court concludes that the TET qualification is mandatory even to minority institutions and the petitioners' appointment would be deemed to be illegal, the petitioners would be willing to suffer the consequences. That means this Court has not relaxed the condition of TET qualification.

(8) To buttress his contentions, though the learned Assistant Government Pleader relied upon a decision of this Court in Writ Petition No.4640/2016 decided on 12.12.2017, this Court held that no fault is found with the G.R. dated 23.08.2013. He further argued that though the State cannot interfere with the rights of the minority institutions to administer the institutions, but the State is empowered to provide minimum eligibility criteria about the qualifications of the staff while

admitting to the courses. Therefore, the learned Assistant Government Pleader submitted that petitioners are not entitled to any relief and urged for the dismissal of the petition. However, he fairly submitted that the petition could be disposed of in terms of a decision in W.P. No.6523/2023.

(9) We have appreciated the rival submissions of learned counsel for the parties and perused the record, impugned order and the decisions relied upon by the learned counsel for the parties.

(10) At the outset, it appears that there is no dispute that the petitioner Nos.1 and 2 had appointed petitioner No.3 as 'Assistant Teacher' by following the prescribed procedure and on clear, vacant, and permanent post. On 16.07.2024, respondent No.3 Education Officer granted approval to the appointment of petitioner No.3. As such, it was obligatory on the part of respondent No.2 to enter the name of petitioner No.3 in Shalarth Pranali and issue Shalarth I.D. It is alleged that respondent no.2 completely ignored the order of approval dated 16.07.2024 issued by respondent No.3.

(11) It is pertinent to note that though petitioner No.1 is a registered religious (Buddhist) minority educational institution and runs petitioner No.2 School wherein petitioner No.3 was appointed as 'Assistant Teacher', however, respondent No.2 and 3 refused to enter

the name of petitioner No.3 in Shalarth Pranali and issue Shalarth ID on the ground that petitioner No.3 has not cleared the TET qualification.

(12) It is pertinent to note that the issue involved in the present matter is covered by the judgment in ***Writ Petition No.15228/2023 (The Head Master Khawaja Nasiruddin Marathi Primary School and Others vs. The State of Maharashtra through its Secretary and others)*** decided by this Court at Aurangabad Bench, which was followed in ***The Society of Sisters of St.Joseph's Nagpur*** (supra), wherein it is held as under:- ;

“2. The issue as to whether the TET qualification would be mandatory for teachers teaching in minority institutions is before the Hon'ble Supreme Court.

3. In several matters, at the Principal Seat, at Aurangabad and Nagpur, the Education Officers have been directed to consider the proposals of the petitioners for approval or for entering their name in the Shalarth ID, notwithstanding that they do not have the TET qualification. A recent order delivered on 02/11/2023 at the Principal Seat in Writ Petition No.6894/2023 and 6895/2023 is cited before us. The only difference is that in those 2 cases, the teachers had approval and were praying for inclusion in the Shalarth ID/Pranali.”

(13) Learned Assistant Government Pleader fairly conceded this position, though he opposes the petition; however, without hesitation, he submitted that the petition could be disposed of in terms of a decision in W.P. No.6523/2023

(14) In view of the above, the petition is partly allowed. The impugned communication dated 13.09.2024 issued by respondent No.2, the Deputy Director of Education, Nagpur, is hereby quashed and set aside.

(15) We direct respondent No.2, the Deputy Director, Education, Nagpur, to reconsider the proposal of the petitioners without insisting on the TET qualification. The petitioners shall tender an affidavit/undertaking in this Court as well as copies to the Education Officer and the Management, to the effect that if the Hon'ble Supreme Court concludes that the 'TET qualification' is mandatory even to minority institutions and the petitioner No.3's appointment would be deemed to be illegal, the petitioners would be willing to suffer the consequences. Let such affidavit/undertaking be filed on or before 13/03/2025 in this Court, with the Deputy Director, Education, Education Officer (Primary) and the Management.

(16) Rule is made absolute in the above terms. No costs.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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