



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

WRIT PETITION NO.7206/2024

- PETITIONER :**
1. Mohd. Yusuf Nek Naam Urdu
Shikshan Sanstha, Narsipur,
Tah.Telhara, Distt. Akola,
through its President.
 2. Nek Naam Urdu High School,
Panchgavhan, Tah. Telhara, District -
Akola, through its Head Master.
 3. Shaikh Mukthar Shaikh Rashid,
age : 38 years, Occ: Service,
R/o Panchgavhan, Tah. Telhara,
District – Akola.

...VERSUS...

- RESPONDENTS :**
1. State of Maharashtra,
Through its Secretary, Education
and Sports Department, Mantralaya,
Mumbai – 32.
 2. The Education Officer (Secondary)
Zilla Parishad, Akola, Distt. Akola.

Mr. Ram Karode, Advocate for petitioners
Mr. S.M.Ukey, Additional Government Pleader for respondents

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

DATE : **31/01/2025.**

ORAL JUDGMENT : **(PER : ABHAY J. MANTRI, J.)**

1. Heard. **Rule.** Rule made returnable forthwith. Heard
finally with the consent of the learned counsels for the parties.

2. The petitioners challenge the communication/order dated 23.10.2024 issued by respondent No.2, Education Officer (Secondary) Zilla Parishad, and seek direction to respondent No.2 to grant of approval to appoint petitioner No.3 and release his salary.

3. It is claimed that petitioner No.1 is a Minority Education Society that runs petitioner No.2 – School, where petitioner No.3 works as ‘Shikshan Sevak’. The School Management forwarded the proposal for grant of approval to respondent No.2 – the Education Officer, who rejected it on 23.10.2024 on the ground that the proposal of petitioner No.3 did not contain the documents about passing the TET examination. Therefore, the petitioners are before this Court.

4. Learned Advocate Mr. Karode for the petitioners vehemently contended that the issue involved in the case at hand is squarely covered by the judgment in *Writ Petition No.256/2020 [Hazrat Dada Hayat Qualandar Education Society and others Vs. State of Maharashtra, Through School Education and Sports Department, Mantralaya, Mumbai and others, decided on 13/06/2024]*, which was followed in *Writ Petition No.6542/2019 [Ku. Rekha Vishwanath Barduddhe and others Vs. State of Maharashtra, through its*

Secretary, Department of Education, Mantralaya, Mumbai – 32 and another, decided on 05/07/2024] and submitted that petitioner No.3 is also entitled to the relief, as prayed. He has also drawn our attention to paragraphs No.7 and 8 of the order passed in Writ Petition No.256/2020, wherein this Court has directed to grant approval to the petitioner therein subject to the final outcome of pending S.L.P. before the Hon'ble Supreme Court and on furnishing undertaking to that effect before the employer. The relevant paragraphs No. 7 and 8 of the said order, which reads thus as under :

“7. That being so, we direct the respondents to grant approval to petitioner No.3, an employee of petitioner Nos.1 and 2 minority institution, subject to the final outcome of the above-referred S.L.P. and other similar matters.

8. The petitioner No.3 shall furnish an undertaking thereby stating that (a) his appointment and approval shall not create any absolute right in his favour; (b) he shall not claim any equity based on it; and (c) if so directed by the Education Officer, the petitioner No.3 shall reimburse the entire amount of salary on executing a bond to that effect to the Education Officer stating that amount paid to petitioner No.3 from public exchequer shall be redeposited with interest as shall be ordered by the Education officer.

Above conditions are incorporated as it is the stand of the respondents that petitioner No.3 does not hold requisite qualification of passing TET.”

5. It is pertinent to note that the learned Additional Government Pleader has not disputed the said legal position and

propounded that the issue in the case at hand is covered by the law laid down in the above judgment and submitted to pass the appropriate order.

6. Having considered the reasons stated in the petition, the mandate laid down in Writ Petition No.256/2020 and the fact that petitioner No.1 is a Minority Institution, the requisite qualification of TET does not apply to the teachers working therein. We deem it appropriate to pass the following order.

7. The writ petition is allowed and disposed of in terms of what has been held in *Writ Petition No.256/2020 [Hazrat Dada Hayat Qualandar Education Society and others Vs. State of Maharashtra, Through School Education and Sports Department, Mantralaya, Mumbai and others, decided on 13/06/2024]* in paragraphs No.7 and 8, as referred to above.

8. Rule is made absolute in the above terms. No order as to costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)