

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

WRIT PETITION NO. 1001 OF 2022

Sonali Suresh Chinchale (Mrs.Sonali Viraj Ghude) Petitioner

-Vs.-

The State of Maharashtra and others Respondents

Mr. B.G.Kulkarni, Advocate for the Petitioner.
Mr.A.S.Fulzele, Addl.G.P. for Respondent Nos.1 to 5.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 02 MARCH 2022

P.C. :

Heard learned Counsel for the parties.

2. Apart from the issue regarding syllabus raised by the Petitioner for the TET Examination, the Petitioner is also aggrieved by a Circular issued by the Education Officer (Sedonary) Zilla Parishad Washim on 5 January 2022, directing the Educational Institutes to take action against those teachers, who have not passed the TET Examination by 30 March 2019 relying on the Government Resolution dated 24 August 2018.

3. The learned Counsel for the Petitioner submits that in several Petitions challenge was raised as regards the requirement of passing of TET Examination before the stipulated date and after the challenge was negated by the Aurangabad Bench of this Court, those teachers have filed Special Leave Petition where *status quo* has been granted by the Supreme Court and therefore, such Circular ought not to have been issued by Respondent No.4- Education Officer (Secondary), Zilla Parishad Washim.

4. The learned Counsel for the Petitioner has placed on record orders passed in Writ Petition No. 989 of 2022. The Division Bench at Principal Seat in Writ Petition No. 989 of 2022 passed following order on 2 February 2022.

“The Petitioner is seeking approval to the appointment firstly as Shikshan Sevak and then as Assistant Teacher in regular pay-scale. The petition is pending. However, it is circulated for urgent admission in light of the notice dated 25 January 2022 issued by the Education Officer (Primary), Zilla Parishad, Raigad addressed to the employer of the Petitioner to take action against the Petitioner on the ground that the Petitioner has not passed the mandatory Teacher Eligibility Test within the stipulated period.

2. Learned Counsel for the Petitioner states that the stipulation was challenged in this Court in various petitions which were dismissed by the Division Bench (Aurangabad Bench) of this Court on 11 June 2021.¹ Learned Counsel for the Petitioner states that this decision of the Division Bench was challenged by the State by filing Special Leave Petitions in the Supreme

Court. The Supreme Court by order dated 5 July 2021 has directed to maintain status-quo.

3. According to us, since a large number of such teaching staff would be in a similar situation, the State must inform the Court as to its stand in light of the pendency of the matters in the Supreme Court and the order passed by the Supreme Court. This is necessary to maintain uniformity and avoid further litigation. Learned AGP will take instructions from the concerned Principal Secretary and inform the Court of the stand of the State in all such matters and whether the State will issue any instructions to the Education Officers as to the course of action to be adopted while the Special Leave Petitions are pending in the Supreme Court.

4. Stand over to 7 February 2022. To be listed under the caption 'For Directions'.

5. If instructions are not received by the office of the Government Pleader from the Principal Secretary, we will have to ask the Principal Secretary to appear online through video conferencing as the matter is urgent.

6. The learned counsel states that the Petitioner is working as of date. Status-quo as regard Petitioner's service be maintained in the meanwhile."

5. Thereafter on 9 February 2022 in Writ Petition No.989 of 2022 following order was passed.

"Pursuant to the order dated 2 February 2022, the learned AGP has placed before us a compilation and has drawn our attention to the counter affidavit filed by the State of Maharashtra in the Supreme Court in the

Appeals challenging the stipulation of passing Teachers Eligibility Test within a specified time. It is stated in the reply that interim protection granted to the petitioners before the Supreme Court is also being applied to the similarly situated teachers and on this ground the State has prayed that the order of status-quo be vacated. It is clear that the stand of the State is till the matter is pending in the Supreme Court the status-quo granted is also applicable to the similarly situated teachers other than the ones before the Supreme Court.

2. The learned AGP however contends that the Petitioner is not similarly situated teacher. However, there is no such stand in the affidavit filed by the Respondent.

3. The learned counsel for the Petitioner has placed before us an additional affidavit to which a copy of the order dated 31 January 2022 terminating services of the Petitioner is annexed. The learned counsel for the Petitioner submitted that this order was served on the Petitioner yesterday and according to the Petitioner it is backdated.

4. Issue notice to Respondent Nos.3 and 5 returnable on 2 March 2022. Hamdast is permitted. In addition, the Petitioner is permitted to serve the Respondent Nos. 3 and 5 by way of a private notice and file affidavit of service.”

6. Thus, it was noted that it is a stand of the State of Maharashtra that till the matter is pending before the Supreme Court *status quo* will be applicable to the teachers other than the one before the Supreme Court.

7. If that be the observations of the Division Bench, it is expected that the State of Maharashtra will issue necessary clarification to all the Education Officers in the State of Maharashtra.

8. The learned Additional Government Pleader for Respondent Nos.1 to 5 seeks time to take instructions in that regard.

9. Issue notice to the Respondents, returnable on 30 March 2022.

10. Learned Additional Government Pleader Mr.A.S. Fulzele waives service of notice for Respondent Nos.1 to 5.

11. In the meanwhile, Respondent No.4-Education Officer (Secondary), Zilla Parishad Washim will not enforce the Circular dated 5 January 2022.

12. In case the order passed by the Supreme Court is modified or vacated before the next date, liberty to the State to apply.

(ANIL L. PANSARE, J.) (NITIN JAMDAR, J.)