

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

CONC No. 5849 of 2023

(MS. DIVYA DUBEY Vs SMT. RASHMI ARUN SHAMI AND OTHERS)

CONC/5855/2023, CONC/5857/2023, CONC/5858/2023, CONC/5859/2023,
CONC/5862/2023, CONC/5865/2023, CONC/4247/2024

Dated : 20-01-2026

Shri Utkarsh Agrawal - Advocate for the petitioner (through VC).

Shri Mukesh Parwal - Advocate for the respondents.

01. Since these petitions raise common questions of facts and law, they have been heard together and are being decided by a common order. Facts are being taken from CONC No.5849/2023.

02. This petition under Article 215 of the Constitution of India read with Sections 10 and 12 of the Contempt of Courts Act, 1971 has been preferred by the petitioner complaining of non-compliance and violation of the order dated 11.08.2023 passed in W.P. No.7984/2023.

03. The facts of the case in brief are that on 09.02.2023, the petitioner was appointed on compassionate basis on the post of Prayogshala Shikshak on account of death of her father. On the very next day i.e. 10.02.2023, her appointment of the petitioner was cancelled on the ground that she does not possess the qualification for the post in question therefore her appointment is not valid. The qualification was clearing the Teacher Eligibility Test (TET) with prescribed percentage, which the petitioner did not have.

04. Being aggrieved by the said order, the petitioner preferred Writ Petition before this Court which was allowed by order dated 11.08.2023 and the order cancelling her appointment was quashed and her appointment was upheld. It was categorically held by this Court that when the sole earning

member in the family of the petitioner died, there was no requirement of qualification of passing of TET with prescribed percentage. When she applied for compassionate appointment, even at that time, there was no such requirement. Even otherwise, it is provided in the schedule that in case of compassionate appointment, the department may relax the requirement therefore the petitioner falls under the special category i.e. compassionate appointment. The power of relaxation has been given to the department hence such condition cannot be treated as mandatory. Primary school teachers who had already been appointed at earlier point of time without passing the TET have also been permitted to work as Prayogshala Shikshak therefore the petitioner can also perform the said duties.

05. Thereafter, the petitioner made an application before respondent No.2 for compliance of the order passed in the writ petition. When the same was not complied with, the petitioner preferred this petition before this Court upon which notices were issued, after which compliance report was filed by the respondents along with which they have filed an order dated 15.03.2024 (Annexure R/1) whereby appointment has been granted to the petitioner. However, in Condition No.1, it has been stated that the petitioner within a period of three years would be mandatorily required to clear the Teacher Eligibility Test (TET). It is this condition which has been contended by the petitioner to be violative of the order passed by this Court.

06. I have heard the learned counsel for the parties and have perused the record.

07. In the order passed in the writ petition, this Court had extensively

dealt with the issue as to whether the petitioner was required to clear the TET with prescribed percentage at the time of her appointment, which had been cancelled on the ground that she was not having such requirement. It had been categorically held that at the time of death of father of the petitioner and at the time when she had applied for compassionate appointment, there was no such condition. It was specifically and clearly held by this Court that there was no requirement for the petitioner to have cleared the TET with prescribed percentage at the time of her appointment and on this very ground cancellation of her appointment order was set aside. The issue was hence set at rest in no unequivocal terms with a clear finding that there was no requirement for the petitioner to have cleared TET with prescribed percentage. The order which has now been passed by respondent No.2 on 15.03.2024 is not a fresh order of appointment of petitioner but is only a compliance order passed in view of the order passed in the writ petition. In fact, no such order was even required to be passed by respondent No.2 since cancellation of appointment order of the petitioner had been set aside, the necessary corollary of which was that her appointment order dated 09.02.2023 stood revived automatically.

08. Once the issue as regards the petitioner not requiring to pass TET with prescribed percentage had been set to rest by this Court, it was not open for respondent No.2 to have again imposed such a condition upon the petitioner as has been done by him by order dated 15.03.2024. Imposition of such a condition cannot be justified in any manner and runs diagonally contrary to the order passed by this Court and is nothing but an attempt by

respondent No.2 to overreach the lawful authority of this Court and to negate a specific finding given by this Court. Such an act on part of respondent No.2 amounts to gross violation and willful breach and disobedience of the order passed by this Court.

09. Thus, in view of the aforesaid discussion, I am of the opinion that respondent No.2 is guilty of deliberate and gross violation of the order passed by this Court and is accordingly held to have committed contempt of the lawful authority of this Court. However, before proceeding to impose punishment upon respondent No.2, I deem it fit to grant him an opportunity of hearing on the question of sentence.

10. The petitions are hence directed to be listed on 10.03.2026 for the said purpose.

(PRANAY VERMA)
JUDGE

Shilpa