

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4904 of 2020

Sagar Gopichand Bahire .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mrs. S. D. Tambat-Dhumal, Advocate for the Petitioner.

Shri A. R. Nikam, Advocate for the Respondent No. 6.

Shri N. S. Tekale, Advocate for the Respondent No. 7.

WITH

WRIT PETITION NO. 2161 OF 2020

Amol Shivaji Patole .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. R. Kolhare, Advocate for the Petitioner.

Shri V. M. Chate, Advocate for Respondent No. 2.

WITH

WRIT PETITION NO. 10 OF 2020

Sachin Abajirao Gunale and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for Petitioners.

Shri V. S. Valse, Advocate for Respondent Nos.4 and 6

WITH

WRIT PETITION NO. 1339 OF 2020

Anuradha Dnyanoba Pawar
and others

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for the Petitioners

**WITH
WRIT PETITION NO. 1662 OF 2020**

Dnyanoba Narsingrao Dawargaye .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ankush N. Nagargoje, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 2985 OF 2020**

Vijay Manchakrao Navghare
and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat) and Shri M. U. Deokate ,
Advocates for Petitioners.

Shri A. R. Nirmal, Advocate for Respondent No. 6.

Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 428 OF 2020**

Sachin Yuvraj Mahajan and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat) and Shri M. U. Deokate, Advocates
for Petitioners.

Shri A. D. Aghav, Advocate for Respondent No. 4.

Shri A. R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 488 OF 2020**

Shivshankar Rajkumar Bhagyawant
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Irfan D. Maniyar, Advocate for Petitioners.
Shri N. S. Tekale, Advocate for Respondent No. 7.
Shri A. R. Nikam, Advocate for Respondent No. 6.

WITH**WRIT PETITION NO. 495 OF 2020**

Rajkumari Anilrao Kadam .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Irfan D. Maniyar, Advocate for the Petitioner.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH**WRIT PETITION NO. 563 OF 2020**

Rahul Ramrao Reddy .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Girish L. Awale, Advocate for the Petitioner.

WITH**WRIT PETITION NO. 618 OF 2020**

Manoj s/o. Dnyanoba More
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for Petitioners.
Shri V. S. Valse, Advocate for Respondent Nos. 4 and 5.

WITH**WRIT PETITION NO. 651 OF 2020**

Ram Anant Chate and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for Petitioners.
 Shri V. S. Valse, Advocate for Respondent Nos. 4 and 5.

WITH
WRIT PETITION NO. 665 OF 2020

Prashant Manohar Dalve and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri Irfan D. Maniyar, Advocate for Petitioners.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 672 OF 2020

Yamuna Bharat Buwa and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for the Petitioners.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 679 OF 2020

Chandrakala Sudhakar Yarkalwad
 and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate for the Petitioners.
 Shri P. R. Tandale, Advocate for Respondent Nos. 3 and 4.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri A. D. Aghav, Advocate for Respondent No. 8.

**WITH
WRIT PETITION NO. 743 OF 2020**

Seema Rangrao Rudre .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

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Shri S. R. Kolhare, Advocate for the Petitioner.

Shri V. M. Chate, Advocate for Respondent No. 2.

Shri M. M. Patil, Advocate for Respondent Nos. 3 and 4.

**WITH
WRIT PETITION NO. 760 OF 2020**

Ashwini Pundlikrao Lakhmawad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri G. K. Kshirsagar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 942 OF 2020**

Ranjana Chaliyaji Magar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vishnu B. Madan, Advocate for the Petitioner.

Shri S. B. Ghute, Advocate for Respondent No. 4.

Shri L. S. Mahajan, Advocate for Respondent Nos. 5 and 6.

Shri A. R. Nikam, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 1108 OF 2020**

Uddhav Laxman Ghatol and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Irfan D. Maniyar, Advocate for Petitioners.

Shri A. R. Nikam, Advocate for Respondent No. 8.

Shri N. S. Tekale, Advocate for Respondent No. 9.

**WITH
WRIT PETITION NO. 1123 OF 2020**

Mahesh Laxmanrao Tambale
and another .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 1124 OF 2020**

Tejashri Machhindra Buwa and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri G. D. Jain, Advocate for Petitioners.
Shri K. C. Sant, Advocate for Respondent No. 4.

**WITH
WRIT PETITION NO. 1155 OF 2020**

Kavita Chandrakant Todkari .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri S. R. Kolhare, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 1156 OF 2020**

Kavita Suryakant Malkapure .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri S. R. Kolhare, Advocate for the Petitioner.
 Shri Vithal M. Chate, Advocate for Respondent No. 2.

WITH
WRIT PETITION NO. 1160 OF 2021

Rukmin Baburao Mugale	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri V. P. Savant, Advocate for the Petitioner.
 Shri Avinash Hande, Advocate for Respondents No. 5 and 6.

WITH
WRIT PETITION NO. 1222 OF 2020

Dhananjay Prabhakar Rao Mahamuni and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri Irfan D. Maniyar, Advocate for Petitioners.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 1231 OF 2020

Namdev Datta Modhe and another	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri Tukaram M. Venjane, Advocate for Petitioners.

WITH
WRIT PETITION NO. 1248 OF 2020

Nagesh Rameshwar Sonawane and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri Tukaram M. Venjane, Advocate for Petitioners.
Shri S.B. Pulkundwar for Respondent No. 3.

WITH
WRIT PETITION NO. 1261 OF 2020

Ajay Nagnathappa Eklare and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri Irfan D.Maniyar, Advocate for the Petitioners.
Shri A.R. Nikam, Advocate for Respondent No. 6.
Shri N.S. Tekale Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 1415 OF 2020

Rameshwar Ukhardu Wagh and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri S. A. Dhumal (Tambat), Advocate for the Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri Amol S. Gandhi, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 1418 OF 2020

Dnyaneshwar Vithalrao Armal
and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri Laxman H. Kawale, Advocate for Petitioners.
Shri A. A. Khande, Advocate for Respondents No. 5 and 6.
Shri A.R. Nikam, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 1444 OF 2020

Abhilash Mohan Sonawane

and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. A. Dhumal (Tambat), Advocate for Petitioners.

Shri A. R. Nikam, Advocate for Respondent No. 6.

Shri Amol S. Gandhi, Advocate for Respondent No. 7.

WITH

WRIT PETITION NO. 1464 OF 2020

Vijay Arjunrao Yewale and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Tukarm M. Venjane, Advocate for Petitioners.

WITH

WRIT PETITION NO. 1482 OF 2020

Rupaji Khirba Karhale and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Sapkal, Senior Advocate i/by Shri S. R. Sapkal,
Advocate for Petitioners.

Shri A. R. Nikam, Advocate for Respondent No. 6.

WITH

WRIT PETITION NO. 1538 OF 2020

Satish Anandrao Jadhav and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Irfan D.Maniyar, Advocate for the Petitioner.

Shri Anup R. Nikam, Advocate for Respondent No. 6.

Shri N.S. Tekale, Advocate for Respondent No. 7.

WITH

WRIT PETITION NO. 1544 OF 2020

Asha Govardhan Surshetwar .. Petitioner
Versus
 The State of Maharashtra and others .. Respondents

Shri Manish P. Tripathi, Advocate for the Petitioner.
 Shri P. R. Kadam, Advocate for Respondents No. 5 and 6.

WITH
WRIT PETITION NO. 1568 OF 2020

Rameshwar Madanrao Dhopte
 and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri Nilkanth R. Pawade, Advocate for Petitioners.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.

WITH
WRIT PETITION NO. 1574 OF 2020

Sangita Marotrao Kadam and another .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri Irfan D. Maniyar, Advocate for Petitioners.
 Shri S. B. Pulkundwar, Advocate for Respondents No. 3 and 4.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 1665 OF 2020

Rangnath s/o Jagannath Suryawanshi
 and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri S.A. Dhumal (Tambat), Advocate for Petitioners.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.

Shri Amol S. Gandhi, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 1688 OF 2020**

Savita Trimbak Ghadge	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri S.R. Kolhare, Advocate for the Petitioner.
Shri Vithal M. Chate, Advocate for Respondent No. 2.

**WITH
WRIT PETITION NO. 1740 OF 2020**

Sandhya Kishanrao Kalyankar and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri Chandrakant A. Jadhav, Advocate for Petitioners.
Shri H.U. Dhage, Advocate for Respondents No. 5 and 6.

**WITH
WRIT PETITION NO. 2008 OF 2020**

Surekha Choturam Dhakne	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri S. R. Kolhare, Advocate for the Petitioner.
Shri Vithal M. Chate, Advocate for Respondent No. 2.

**WITH
WRIT PETITION NO. 2038 OF 2020**

Pundlik Shripatrao Sangvikar	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri Tukaram M. Venjane, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 1745 of 2020**

Priti Ravindra Warghante and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for Petitioners.

The Respondent Nos. 4 and 5 are served.

Shri A. R. Nikam, Advocate for the Respondent No. 6.

Shri N. S. Tekale, Advocate for the Respondent No. 7.

**WITH
WRIT PETITION NO. 1935 OF 2020**

Ajay Mukund Umrajkar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vithal G. Salgare, Advocate for the Petitioner.

Shri Anup R. Nikam, Advocate for Respondent No. 4.

Shri Pradeep B. Salunke, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 1988 OF 2020**

Ramesh Baburao Budhware .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. M. Maney and Pankaj P. Deshmukh, Advocates for the
Petitioner.

Shri Anup R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 2046 OF 2020**

Pankaj Tukaram Bhandare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Tukaram M. Venjane, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 2103 OF 2020**

Sapna Raghunathrao Deshmukh	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri Dhananjay M. Shinde, Advocate for the Petitioner.
 Shri R. K. Ingole, Advocate for Respondents No. 5 and 6.
 Shri Anup R. Nikam, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 2119 OF 2020**

Suryakant Babanrao Bondare and another	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 2121 OF 2020**

Arun Prakashrao Rekadage	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri Irfan D. Maniyar, Advocate for the Petitioner.
 Shri A.R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 2126 OF 2020**

Jagdish Balaji Mane and another	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
 Shri S. B. Pulkundwar, Advocate for Respondents No. 4 and 5.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
 WRIT PETITION NO. 2155 OF 2020**

Santosh Narayan Gadekar and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Mrs. S. A. Dhumal (Tambat), Advocate for Petitioners.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
 WRIT PETITION NO. 2175 OF 2020**

Nitin Ramrao Suryawanshi and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.
 Shri A. L. Kanade, Advocate for Respondent No. 9.

**WITH
 WRIT PETITION NO. 2177 OF 2020**

Praful Vitthalrao Suroshe	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri V. S. Panpatte, Advocate for the Petitioner.
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 2266 OF 2020**

Archana Sudhakar Wanare
and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
Shri M. G. Deokate, Advocate for Petitioners.
Shri Anup R. Nikam, Advocate for Respondents No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 2300 OF 2020**

Bandu Poma Chavan and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
Shri M. G. Deokate, Advocate for Petitioners.
Shri Anup R. Nikam, Advocate for Respondents No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 2328 OF 2020**

Raju Shankarrao Mundkar .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri V. D. Patnurkar, Advocate for the Petitioner.
Shri S. B. Pulkundwar, Advocate for Respondents No. 4 & 5.
Shri Anup R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 2337 OF 2020**

Digambar Ramchandra Balate .. Petitioner
Versus

The State of Maharashtra and others .. Respondents

Shri V. G. Salgare, Advocate for the Petitioner.

Shri Anup R. Nikam, Advocate for Respondents No. 4.

Shri R. R. Suryawanshi, Advocate for Respondent No. 7 and 8.

**WITH
WRIT PETITION NO. 2340 OF 2020**

Datta Devrao Wanole and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for the Petitioners.

**WITH
WRIT PETITION NO. 2365 OF 2020**

Laxmikant Venkatrao Dabade .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. G. Salgare, Advocate for the Petitioner.

Shri Anup R. Nikam, Advocate for Respondents No. 4.

Shri R. R. Suryawanshi, Advocate for Respondent Nos.7 & 8

**WITH
WRIT PETITION NO. 2675 OF 2020**

Santosh Digambar Khindiwale .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 3055 OF 2020**

Shivprasad Shankarrao Aher .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri M. P. Tripathi, Advocate for the Petitioner.
Shri P. B. Gapat, Advocate for Respondent Nos. 5 and 6.

WITH
WRIT PETITION NO. 3335 OF 2020

Ghalappa Shankarappa Mathpati .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri M. P. Tripathi, Advocate for the Petitioner.
Shri Ashutosh Kulkarni, Advocate for Respondents No. 5 & 6
Shri A. R. Nikam, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 3493 OF 2020

Santosh Prabhu Asole .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for the Petitioner.

WITH
WRIT PETITION NO. 4508 OF 2021

Rupali Subhash Dixit alias
Rupali Abhishek Pande .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Mahesh S. Deshmukh, Advocate for the Petitioner.
Shri A. R. Nikam, Advocate for Respondent No. 6.

WITH
WRIT PETITION NO. 4823 OF 2020

Sarika Nagorao Kulkarni .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Vishnu B. Madan, Advocate for the Petitioner.
Shri D. M. Shinde, Advocate for Respondent Nos. 5 and 6.

WITH
WRIT PETITION NO. 5030 OF 2020

Ramesh Dnyaneshwar Jadhav	..	Petitioner
Versus		
The State of Maharashtra and others	..	Respondents

Shri Mayur G. Deokate, Advocate for the Petitioner.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 5062 OF 2020

Nilesh Mahadev Rajure and others	..	Petitioners
Versus		
The State of Maharashtra and others	..	Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
Shri Mayur G. Deokate, Advocate for the Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 5705 OF 2020

Sheshrao Janardhan Choudhari and others	..	Petitioners
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Versus

The State of Maharashtra and others	..	Respondents
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Shri V. D. Sapkal, Senior Advocate i/b Shri S. R. Sapkal,
Advocate and Shri A. B. Chormal, Advocate for Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 5941 OF 2020**

Laxman Tatyrao Ghodke .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Vishnu B. Madan, Advocate for the Petitioner.
Shri Y. B. Bolkar, Advocate for Respondent Nos. 5 and 6.

**WITH
WRIT PETITION NO. 6047 OF 2020**

Ganesh Panditrao Shinde .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri M. P. Kale, Advocate for the Petitioner.
Shri R. J. Nirmal, Advocate for Respondent No. 5.

**WITH
WRIT PETITION NO. 6154 OF 2020**

Govind Pundlikrao Ravale .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
Shri P. R. Tandale, Advocate for Respondent No. 3.
Shri M. S. Karad, Advocate for Respondents No. 5 and 6.

**WITH
WRIT PETITION NO. 6435 OF 2020**

Ganesh Zipa Kokani .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri B. K. Gaikwad, Advocate for the Petitioner

**WITH
WRIT PETITION NO. 6506 OF 2020**

Tukaram Sheshrao Garud .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri M. G. Deokate, Advocate and Shri S. D. Tambat Dhumal,
Advocate for the Petitioner.
Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 6716 OF 2020**

Suresh Shivaji Marewad and another .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri Y. R. Barhate, Advocate for the Petitioners.

**WITH
WRIT PETITION NO. 6721 OF 2020**

Shrikant Kishanrao Shirde .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Yogesh B. Bolkar, Advocate for the Petitioner.
Shri S. A. Ambilwade, Advocate for Respondents No. 6 and 7.

**WITH
WRIT PETITION NO. 8464 of 2017**

D.T.ED/B.ED. Students Association
Through its President S. A. Magar .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Sachin S. Deshmukh, Advocate for the Petitioner.
Shri A. G. Talhar, A.S.G. for the Respondent No. 3.

WITH
WRIT PETITION NO. 364 OF 2020

Narayan Nagorao Shinde and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6
Shri N. S. Tekale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 372 OF 2020

Rameshwar Vithhal Wagh
and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Mrs. S.A.Dhumal (Tambat), Advocate and
Shri M. G. Deokate, Advocate for Petitioners.
Shri A. R. Nikam, Advocate for Respondent No. 6.
Shri A. S. Gandhi, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 120 OF 2020

Anil Chhabulal Rathod .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Mrs. S. D. Tambat-Dhumal, Advocate for the Petitioner.
The Respondent Nos. 3 to 5 are served.

WITH
WRIT PETITION NO. 139 OF 2020

Smt. Yogita Bhimrao Shisode alias

Smt. Nutan Vijay Nikam and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
Shri M. G. Deokate, Advocate for Petitioners
Shri A. R. Nikam, Advocate for Respondent No. 6.

WITH
WRIT PETITION NO. 157 OF 2020

Prashant Gangadhar Aspatwar .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri A. N. Nagargoje, Advocate for the Petitioner.
Shri H. V. Patil, Advocate for Respondent No. 2.
Shri S. B. Pulkundwar, Advocate. for Respondent No. 4.
Shri V. P. Kadam, Advocate for Respondents No. 5 and 6.
Shri Anup R. Nikam, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 212 OF 2020

Narhari Balajirao Kolgane .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri A. N. Nagargoje, Advocate for the Petitioner.
Shri S. B. Pulkundwar, Advocate for Respondent No. 4.
Shri V. D. Gunale, Advocate for Respondents No. 5 and 6.
Shri Anup R. Nikam, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 217 OF 2020

Jyoti Jeevanrao Deogaonkar .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri A. N. Nagargoje, Advocate for the Petitioner.
 Shri S. B. Pulkundwar, Advocate for Respondent No. 4.
 Shri V. D. Gunale, Advocate for Respondents No. 5 and 6.
 Shri Anup R. Nikam, Advocate for Respondent No.7.

**WITH
 WRIT PETITION NO. 348 OF 2020**

Sonali Sudhakar Salunke and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri Vinod P. Patil, Advocate for Petitioners.
 Shri A. D. Aghav, Advocate for Respondent No. 5.
 Shri A. J. Patil, Advocate for Respondent No. 6.

**WITH
 WRIT PETITION NO. 349 OF 2020**

Namdeo Kundlik Chapke and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
 Shri M. G. Deokate, Advocate for Petitioners .
 Shri Anup R. Nikam, Advocate for Respondent No. 6.
 Shri A. S. Gandhi, Advocate for Respondent No. 7.

**WITH
 WRIT PETITION NO. 401 OF 2020**

Rohit Gajanan Deshmukh
 and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri V. D. Sapkal, Senior Advocate i/b Shri S. R. Sapkal,
 Advocate for Petitioners.
 Shri A. R. Nikam, Advocate for Respondent No. 6.
 Shri N. S. Tekale, Advocate for Respondent No. 7.

**WITH
WRIT PETITION NO. 412 OF 2020**

Murlidhar Datta Kayande and another .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

Mrs. S. A. Dhumal (Tambat), Advocate and
Shri M. G. Deokate, Advocate for Petitioners.
Shri Anup R. Nikam, Advocate for Respondent No. 6.

**WITH
WRIT PETITION NO. 7987 OF 2020**

Govind Eknathrao Gore .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri M. P. Kale, Advocate for the Petitioner.
Shri R. J. Nirmal, Advocate for Respondents No. 5 and 6.

**WITH
WRIT PETITION NO. 2958 OF 2019**

Anil Bansidhar Sonwane .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Majit S. Shaikh and Shri Yogesh G. Birajdar, Advocates for
the Petitioner.
The Respondents No. 3 is served.

Shri S. B. Yawalkar, Addl., G. P. and Shri A. R. Kale and Shri K.
N. Lokhande, A.G.P. for Respondents/State in respective writ
petitions.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

CLOSED FOR ORDERS ON : 23.04.2021
ORDER PRONOUNCED ON : 11.06.2021.

FINAL ORDER (*Per S. V. Gangapurwala, J.*) :-

. The petitioners in all these writ petitions are teachers in the Zilla Parishad and/or private schools. These petitioners assail clause 2 of the Government Resolution dated 24th August, 2018 mandating that the teachers not having acquired Teacher's Eligibility Test (for short "TET") qualification shall be discontinued/terminated and the communications issued to them of discontinuing the services of the petitioners on not having acquired TET qualification by 31st March, 2019 and withholding their salaries.

02. As all these petitioners are similarly situated and they raise similar ground of challenge, to avoid rigmarole all these petitions are decided by this common judgment.

03. We have heard Mr. Sapkal, the learned senior advocate, late Shri Chaukidar, Mr. Panpatte, Mrs. Tambat-Dhumal, Mr. Kolhare, Mr. Venjane, Mr. Nagargoje, Mr. Maniyar, Mr. Awale, Mr. Kshirsagar, Mr. Madan, Mr. Jain, Mr. Savant, Mr. Kawale, Mr. Tripathi, Mr. Jadhav, Mr. Salgare, Mr. Shinde, Mr. Patnurkar, Mr. Mahesh Deshmukh,, Mr. Mayur Deokate, Mr. Mahesh P. Kale, Mr. S. S. Thombre, Mr. G. K. Gaikwad, Mr. Barhate, Mr. Bolkar, Mr. Sachin Deshmukh and Mr. Vinod P. Patil the learned advocates for petitioners in respective writ petitions.

04. The substratum of their submissions can be culled out as

under :

A. The employees appointed prior to 31.03.2015 are exempted from acquiring TET qualification. The employees appointed after 31.03.2015 shall acquire TET qualification within four years. Reference is made to Section 24 of the Right of the Children to Free and Compulsory Education Act, 2009 (for short "RTE Act").

B. The Central as well as the State Government were in confusion of the mandatory nature of acquiring TET qualification. Reliance is placed by the petitioners on various Government Resolutions since the year 2012, which are as under :

- a. Government Resolution dated 13.02.2012 TET is made applicable and same as mandatory.
- b. Government Resolution dated 06.03.2013, the word mandatory from G. R. dated 13.02.2013 is deleted.
- c. Government Resolution dated 20.08.2013, the date 31.03.2015 also came to be deleted.
- d. Government Resolution dated 23.08.2013 again the same is said, it is mandatory.
- e. G. R. dated 23.06.2017 and in clause 5(5.4), it is stated that, employees will get five chances to improve the said qualification.
- f. Amendment dated 09.08.2017, it is held that, the act came into force as on 01.04.2015 and TET certificate has to

be acquired in four years from 31.03.2015.

- g. G. R. dated 24.11.2017 it is stated that from 30.06.2016 candidate has to achieve TET in three chances.
- h. G. R. dated 24.08.2018, the G. R. dated 24.11.2017 came to be superseded and further it is said that, TET certificate is to be acquired till 30.03.2019.
- i. G. R. dated 07.02.2019, the initial G. R. dated 13.02.2013 in regard to TET came to be superseded and for the first time a qualification is revised and fixed, wherein it is also said that TET is mandatory.

C. The syllabus came to be fixed for the first time in the year 2019, hence the chances for acquiring TET qualification made mandatory should be counted from 07.02.2019. From the declaration of syllabus five chances ought to be granted to the employees appointed on or after 31.03.2015. The employees appointed prior to 31.03.2015 are not required to possess TET qualification.

D. The impugned government resolution is not in consonance with the Rule 19(2) of the Right of Children to Free and Compulsory Education Rules (for short "RTE Rules") and Section 23 of the RTE Act. Under Rule 19(2) of the RTE Rules, nine chances are given to the employees for acquiring TET qualification and relaxation is granted under Rule 18(4) of the RTE Rules for further three years. This aspect has not been considered. Several inconsistent resolutions were brought in operation. Several cut off dates were prescribed without

declaring the syllabus and, therefore, the legislature took note of it and amended RTE Act 2009 in the year 2017. The cut off date is fixed for acquiring TET qualification. While amending act retrospective effect is given. The employees appointed prior to 31.03.2015 are to be exempted. Chances of acquiring TET qualification have to be granted from the amendment made in the year 2017 and not prior to it.

E. All these petitioners possess the basic qualification as prescribed by the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act (for short MEPS Act) and Rules. Acquiring TET qualification is an additional qualification. Same has to be obtained during the service period as an in service employee. The same has to be prospective. All the employees have achieved the status of permanency and they have completed eight to nine years of service. Now to terminate the services on the ground that till 31.03.2019 TET qualification is not acquired would be inequitable. The petitioners would be out of employment. They are middle aged and have become over aged for employment elsewhere. More hardship would be caused to them. If the amendment is interpreted that chances are to be given from 2017 for acquiring TET qualification, same would be equitable and all employees can be accommodated. The amendment will have to be construed prospectively.

F. According to the petitioners by issuing the impugned Government Resolution, the respondents have acted against the Act and Rules. The learned counsel rely on an order of the Apex

Court in Special Leave Petition (C) Diary No. 12338 of 2020 dated 20th August, 2020 and submit that, in the said order the Apex Court allowed the primary teachers to acquire TET qualification within a period of five years from the date of the order. They have been granted permission to acquire the TET qualification upto 2025. The same view is required to be adopted in the present matters. The notification and the RTE Act would not be applicable to the teachers teaching IX and X standards. As such those teachers who are appointed for teaching IX and X standards would not be required to possess TET qualification.

05. The learned Additional Government Pleaders for the respondent/State in respective writ petitions, Mr. Nikam, the learned advocate for the Maharashtra State Examination Council, Mr. Tekale, Mr. Valse, Mr. Tandale, Mr. M. M. Patil Beedkar, Mr. Mahajan, Mr. Dambe, Mr. Hande, Mr. Pulkundwar, Mr. Gandhi, Mr. Kadam, Chate, Mr. Dhage, Mr. Salunke, Mr. Ingole, Mr. Kande, Mr. Bolkar, Mr. Shinde, Mr. Karad, Mr. Ambilwade, Mr. Gunale, Mr. Nirmal and Mr. Aghav the learned counsel for respondents/Zilla Parishad and private parties have canvassed their submissions.

06. According to respondents Section 23 of the RTE Act prescribes that a person to be eligible for appointment as a teacher shall possess such minimum qualification as laid down by an academic authority authorized by the Central Government by notification. The Central Government has notified National Council for Teacher Education (for short NCTE) as an academic

authority authorized to lay down the minimum qualification for appointment of teachers. Under notification dated 23rd August, 2010, the NCTE laid down minimum qualification for a person to be appointed as a teacher in Class I to VIII. One of the essential qualification is that he should pass TET. The guidelines were also issued on 11th February, 2011 to that effect. The guidelines also prescribe the methodology of examination. The TET is conducted by the Maharashtra State Council of Examination Pune on 15.12.2013, 14.12.2014, 16.01.2016, 07.06.2016, 22.07.2017, 15.07.2018 and 19.01.2020. It has also conducted Central Teachers Eligibility Test (for short CTET) examinations from June 2011 on wards. The exams are conducted on 26.06.2011, 29.01.2012, 18.11.2012, 28.07.2013, 16.02.2014, 21.09.2014, 22.02.2015, 20.09.2015, 21.02.2016, 18.09.2016, 09.12.2018 and 07.07.2019. The teachers could have either appeared for TET or CTET. According to the learned counsel, the syllabus was also approved. The allegation of non framing of syllabus is not true. Since 2013 TET is conducted in Marathi, Urdu and English languages and the syllabus is also framed.

07. The learned counsel rely on the judgment of the Division Bench of this Court at its Principal seat at Bombay dated 28.01.2020 in Writ Petition No. 747 of 2020 with other connected writ petitions. The NCTE by notification dated 23.08.2010 and 29.07.2011 declared that, it would be compulsory for primary teachers teaching (I to VIII standards) to acquire TET qualification and the same would be minimum educational and professional qualification. Initially the NCTE provided that the

requisite eligibility had to be obtained by the concerned primary teachers before 31.03.2015. The corrigendum dated 06.03.2013 relied by the petitioners was clarifying that existing teachers appointed before 13.02.2013 were not required to complete TET. Earlier under Government Resolution dated 30th June, 2016, the State Government provided for three opportunities to acquire TET qualification. On 09.08.2017 and 17.10.2017, the RTE Act was amended and the time period to obtain TET qualification was provided upto 31.03.2019. Pursuant thereto, the State Government issued Government Resolutions dated 24.11.2017 and 24.08.2018 clarifying that the concerned teachers should obtain minimum qualification latest by 30th June, 2019 and those who did not obtain the said qualification shall be removed from services. The TET examinations were conducted as detailed and in all 69,706 teachers have cleared TET examination in between 2013 – 2018. There are other persons who have cleared Central TET. The State Government requested the Government of India by letter dated 06.05.2019 to give one final opportunity to remaining teachers to acquire minimum qualification. The Central Government under its reply dated 03.06.2019 declined to accept the request of the State Government. In view of that, directions are given to stop the salaries of the teachers who did not acquire TET qualification within the prescribed period and also to take steps for termination of their services. The communications by the State authorities are only sequel to the RTE Act. The same is to implement the provisions of the RTE Act. There are more than seventy thousand eligible persons who have cleared the TET. There are many TET qualified teachers

in search of employment and the communications cannot be faulted.

08. The learned counsel for the petitioner in Writ Petition No. 2958 of 2019 submits that, the subject of education finds place in Entry No. 25 in the concurrent list. As per the mandate of Article 254 of the Constitution of India, the enactment made by the parliament would prevail. The local government is duty bound to ensure that the candidates appointed as teachers must possess the minimum required qualification prescribed by the NCTE and as mandated by Section 23 of the RTE Act. Each and every candidate appointed before 23.08.2010 and subsequently also should acquire TET qualification by 31.03.2019. The Government Resolutions issued by the State Government contrary to the provisions of the RTE Act are void and does not have legal effect. The appointments of teachers after the commencement of RTE Act and not possessing TET qualification would be regarded as illegal. There are sufficient number of eligible candidates possessing TET qualification available. Their claims were discarded and the candidates not possessing requisite qualification are appointed. This is an inaction on the part of the State of Maharashtra permitting recruitment of ineligible persons. The petition is filed for strict implementation of Section 23 of the RTE Act. The learned counsel relies on the judgment of the Apex Court in a case of State of Uttar Pradesh Vs. Anand Kumar Yadav reported in *(2018) 13 SCC 560*. The Apex Court held that, no appointment was permissible of the teachers not possessing minimum qualification after 23.08.2010 i. e. after the

date of notification by the NCTE. The relaxation may be invoked for the limited period or in respect of persons already appointed in terms of application of rules relating to qualifications. The State be directed to strictly implement the central enactment.

09. We have considered the submissions canvassed by the learned counsel for respective parties.

10. In all these cases, the petitioners, it appears are appointed after the notification dated 23rd August, 2010 and the enforcement of the Right of Children to Free and Compulsory Education Act, 2009.

11. Section 23 (1) of the RTE Act empowers the academic authority authorized by the Central Government to provide for the minimum qualification of teacher and who possess the same shall be eligible for appointment. In contingencies where a state does not have adequate institutions offering courses or training in teachers education and teachers possessing minimum qualification as laid down under Sub Section 1 of Sec. 23 of the RTE Act are not available in sufficient numbers, power has been given to the Central Government to relax the minimum qualification required for appointment as a teacher for such period not exceeding five years as may be specified in the notification. First proviso to Sub Section 2 of Section 23 of the RTE Act mandated that a person not possessing the qualification laid down under Sub Section 1 of Section 23 of the RTE Act shall acquire such minimum qualification within a period of five years.

Second proviso to Sub Section 2 of Section 23 of the RTE Act was inserted by amending Act 24 of 2017 with retrospective effect from 01.04.2015. Said second proviso further provided that every teacher appointed or in position as on 31.03.2015, who does not possess minimum qualification as laid down under Sub Section 1 of Section 23 of the RTE Act shall acquire such minimum qualification within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017. The amending Act 2017 is brought with retrospective effect from 01.04.2015. Such teachers are required to obtain qualification on or before 31.03.2019. Rule 19 of the RTE Rules 2010 requires such teachers to obtain the minimum qualification as prescribed within a period of nine years from the commencement of the Act.

12. The Central Government has appointed NCTE as academic authority within the meaning of Section 23 of the RTE Act vide notification dated 23rd August, 2010. The NCTE under notification dated 23rd August, 2010 laid down the minimum qualification for the person to be eligible for appointment as teacher in Class I to VIII. It *inter alia* provided that one of the essential qualification for a person to be eligible for appointment as a teacher in any of the schools referred to in Clause (n) of Section 2 of the RTE Act is that, he /she should pass the teacher's eligibility test which will be conducted by the appropriate Government in accordance with guidelines framed by the NCTE. The NCTE has framed the guidelines.

13. The notification dated 23.08.2010 of the NCTE providing minimum qualification reads thus :

**NATIONAL COUNCIL FOR TEACHER EDUCATION
NOTIFICATION**

New Delhi, the 23rd August, 2010

F. No. 61-03/20/2010/NCTE/(N & S).-In exercise of the powers conferred by Sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), and in pursuance of Notification No. S.O. 750(E) : MANU/HRDT/0013/2010 dated 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE) hereby lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to in clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009, with effect from the date of this notification:-

1. Minimum Qualifications:-

(i) CLASSES I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2 year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor of Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in Education (Special Education)

AND

(b) Pass in the Teacher Eligibility Text (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a) B.A/B.Sc. and 2 year Diploma in Elementary

Education (by whatever name known)

OR

B.A/B.Sc. with at least 50% marks and 1 year Bachelor in Education (B.Ed.)

OR

B.A/B.Sc. with at least 45% marks and 1 year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year BA/B.Sc. Ed or B.A.Ed./B.Sc. Ed.

OR

B.A./B.Sc. with at least 50% marks and 1 year B.Ed. (Special Education)

AND

(b) Pass in the Teacher Eligibility Text (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

14. The NCTE under notification dated 11.02.2011 also specified the structure and the content of TET. It also gave details of nature and standard of questions while designing and preparing question papers. The examining body shall take the following factors into consideration.

Paper I (for classes I to V); No. of MCQs – 150
Duration of examination : one-and-a-half hours
Structure and Content (All Compulsory)

(i)	Child Development and Pedagogy	30 MCQs	30 Marks
(ii)	Language I	30 “	30 “
(iii)	Language II	30 “	30 “
(iv)	Mathematics	30 “	30 “
(v)	Environmental Studies	30 “	30 “

Nature and standard of questions

While designing and preparing the questions for Paper I, the examining body shall take the following factors into consideration :

- The test items on Child Development and Pedagogy will focus on educational psychology of teaching and learning relevant to the age group of 6-11 years. They will focus on understanding the characteristics and needs of diverse learners, interaction with learners and the attributes and qualities of a good facilitator of learning.
- The test items for Language I will focus on the proficiencies related to the medium of instruction, (as chosen from list of prescribed language options in the application form).
- The Language II will be from among the prescribed options other than Language I. A candidate may choose any one language from the available language options and will be required to specify the same in the application form. The test items in Language II will also focus on the elements of Language, communication and comprehension abilities.
- The test items in Mathematics and Environmental Studies will focus on the concepts, problem solving abilities and pedagogical understanding of the subjects. In all these subjects areas, the test items shall be evenly distributed over different divisions of the syllabus of that subject prescribed for classes I-V by the appropriate Government.
- The questions in the tests for Paper I will be based on the topics of the prescribed syllabus of the State for classes I-V, but their difficulty standards, as well as linkages, could be upto the secondary stage.

15. Similar guidelines are for Paper II for Class VI to VIII.

16. In the light of the above, it cannot be said that the syllabus was not framed by the NCTE so as to enable the teachers to appear for the TET examination.

17. The opportunities have been extended time and again to the teachers. The time was extended initially for a period of five years i. e. up to 2015. In 2017 by adding second proviso to sub section 2 of Section 23 of the RTE Act, the teachers appointed on or before 31.03.2015 and not possessing minimum qualification were given a period of four years from 01st April, 2015. Going by the text of Section 23(2) of the RTE Act and its proviso, it is manifest that, teachers appointed after 31st March, 2015 were required to possess TET qualification. A person not possessing TET qualification could not be appointed on and from 01st April, 2013. Second proviso to Sub Section 2 of Section 23 of the RTE Act gives liberty to those appointed on or before 31.03.2015 and not possessing minimum qualification to acquire the same upto 31.03.2019. Even first proviso to sub section 2 of Section 23 of the RTE Act provides that a teacher who at the commencement of the Act does not possess the minimum qualification as laid down under Sub Section (1) shall acquire such minimum qualification within a period of five years. The RTE Act came into force in the year 2010. If it mandated to acquire the said qualification on or before 31.03.2015 and that is further extended upto 31st March, 2019. The details given by the respondents of the TET and CTET examinations conducted since the year 2011 leaves no manner of doubt that consistently the examinations

were conducted. It is the teachers who failed to avail the proper opportunities. Much opportunities were given to them. It is either their inability to clear the examinations or total lethargy in appearing for the examinations and/or taking for granted their services.

18. The Right to Education Act is a central act. Article 254 of the Constitution of India provides that, if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament, which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the concurrent list, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy would be void.

19. The RTE Act 2009 is passed by the Parliament. The numerous Government Resolutions issued since the year 2013 by the State clarifying certain aspects would be of no consequence. The State cannot by executive instructions provide whether provisions of the Central Act are mandatory or otherwise. The reliance on the corrigendum of the year 2013 to the effect that obtaining TET is not mandatory would not inure to the benefit of the petitioners. The G. R. is only an executive instruction. Same cannot be repugnant to the central enactment. Providing relaxation in acquiring TET qualification or extending further

time to acquire TET qualification is prerogative and domain of the Central Government. The State Government does not possess any power or authority to grant exemption from acquiring minimum qualification or extending the time to acquire minimum qualification as laid down U/Sec. 23 of the RTE Act. The state at the most upon the contingencies as detailed in Sub Section 2 of Section 23 of the RTE Act can request the Central Government for extension and it is for the Central Government either to accept the request of the State Government or otherwise. The State Government under clause (2) of the impugned Government Resolution dated 24.08.2018 is only enforcing the central enactment.

20. The Central enactment has been upheld by the Apex Court in a case of Society for Unaided Private Schools of Rajasthan Vs. Union of India and others reported in *(2012) 6 SCC 01*. Lastly the extension was sought by the State Government for acquiring TET qualification, but the same has not been accepted by the Central Government.

21. The order passed by the Apex Court in Special Leave Petition (Civil) Diary No. 12338 of 2020 dated 20.08.2020 may not inure to the benefit of the petitioners. In the said case, the teachers were working in tribal ashram schools on contractual basis. They were regularized under the judgment of the High Court. Said judgment was challenged before the Apex Court. The Apex Court did not interfere with the judgment of this Court, however, directed that, those petitioners should acquire

TET qualification within a period of five years. All these teachers in the tribal ashram schools were appointed much prior to 2010 and in the judgment and order of this Court dated 31.10.2018, the services of those teachers were only regularized who had completed ten years or more. So meaning thereby all those persons were appointed prior to 2008. It was also in peculiar facts of the case the regularization was granted to them. The said judgment would not be of any avail to the petitioners in the present matters.

22. The right to primary education is recognized as fundamental right by Article 21(A) of the Constitution of India. To make the fundamental right to education meaningful the quality education is a *sine qua non* and a qualified teacher would have a significant role in making right to education meaningful. A quality teacher would improve interest in the students and motivate the students. He can do so if he is a master in the said subject and in touch with the latest developments.

23. The Apex Court in a case of **State of Uttar Pradesh Vs. Anand Kumar Yadav** (supra) appreciated the observations of the Full Bench of Allahabad High Court in a case of Anand Kumar Yadav Vs. Union of India reported in 2015 SCC Online All 3997. The Apex Court has explained the object and purpose of introducing TET. The observations are as under :

“112. The object and purpose of introducing the TET is to ensure that a teacher who embarks upon instructing students of primary and upper primary classes is duly equipped to fulfill

the needs of the students, understands the relevance of education for a child at that stage and can contribute to the well rounded development of the child. Teaching a child is not merely a matter of providing information. Deeply embedded in the process of imparting education is sensitivity towards the psyche of the child, the ability to understand the concerns of a young student of that age, the motivations which encourage learning and the pitfalls which have to be avoided. The emphasis on clearing the TET is to ensure the maintenance of quality in imparting primary education. These requirements which have been laid down by NCTE fulfill an important public purpose by ensuring a complement of trained teachers who contribute to the learning process of children and enhance their growth and development. These requirements should not be viewed merely as norms governing the relationship of a teacher with the contract of employment. These norms are intended to fulfill and protect the needs of those who are taught, namely, young children. India can ignore the concerns of its children only at the cost of a grave peril to the future of our society. The effort of the State Government to by-pass well considered norms which are laid down by NCTE must be disapproved by the Court. We have done so on the ground that the State Government lacks the legislative power and competence to do so. Equally, fundamental is the concern that a relaxation of the 53 norms prescribed by an expert body will result in grave detriment to the development and growth of our young children and the provision of quality education to them. Providing quality education is crucial for students belonging to every strata of society. Education which is provided in schools conducted by the Basic Education Board should not be allowed to degenerate into education of poor quality which it will, if the norms which are prescribed by an expert body under legislation enacted by Parliament in the national interest are allowed to be ignored by the State Government on the basis of parochial or populist perceptions. Such an attempt is ultra vires the statutory powers of the State and is arbitrary and violative of Article 14 of the Constitution.”

(supra) the State Government had appointed contractual para teachers (Shiksha Mitras) in the post of primary teachers on honorarium. They did not possess statutory qualification for appointment of teachers prescribed by NCTE. The State Government issued notification to regularize their service as teachers in regular pay scale, though do not confirm to the statutory requirement of qualifications for appointment of teachers in terms of notification of NCTE dated 23.08.2010. The Allahabad High Court struck down the notification. The same is upheld by the Apex Court. The Apex Court held that, proper qualification as per the NCTE notification dated 23.08.2010 is mandatory and cannot be waived. The State Government cannot arrogate to itself the powers of Central Government under Section 23 of the RTE Act. The State Government granting exemption from mandatory minimum qualification prescribed by Central Government under Section 23(2) of the RTE Act is illegal. The present matters are covered by the judgment of the Apex Court in a case of State of Uttar Pradesh Vs. Anand Kumar Yadav (supra).

25. The Division Bench of this Court at its Principal Seat at Bombay in Writ Petition No. 747 of 2020 decided vide judgment and order dated 20th January, 2020 also had an occasion to consider the necessity of possessing TET qualification for the primary teachers to teach the subjects to children admitted in standards I to VIII. In the said judgment the Division Bench of this Court upheld the policy of the Government of the primary teacher possessing TET qualification.

26. It is desirable to ensure that quality requirement for the recruitment of teachers are not diluted at any cost. It is therefore necessary to ensure that persons recruited as teachers possess the essential aptitude and ability to meet the challenges of teachers of primary and upper primary level.

27. The rational for including the TET as a minimum qualification for a person to be eligible for appointment as a teacher is :

- (i) It would bring national standards and benchmark of teachers quality in the recruitment process.
- (ii) It would induce teachers education institutions and students from these institutions to further improve their performance standards.
- (iii) It would sent a positive signal to all the stakeholders that the Government lays special emphasis on teachers quality.

28. The primary teachers would be moulding and shaping minds of young children. Unless the teacher possesses the aptitude, the necessary knowledge and expertise in the subjects, he cannot train the young minds. The small children in a primary school would be for more period in the company of teachers. Heavy responsibility would lie upon the petitioners to impart quality education to these young minds. It is with this laudable object the teachers are required to clear the TET.

29. The relaxation provision under Section 23(2) of the RTE Act cannot apply in perpetuity. The qualification provided U/Sec. 23(2) of the RTE Act is statutory qualification. The notification issued by the NCTE on 23.08.2010 provided for the minimum statutory qualification and it provided that the person to be appointed as a teacher should possess TET qualification.

30. These teachers appointed from the date of commencement of the RTE Act are required to possess the qualification as prescribed by the NCTE. The appointments made in breach of Sec. 23(1) of the RTE Act cannot be sustained. The relaxation given has also expired on 31.03.2019.

31. In the light of the above, it would not be possible to accept the contention of the petitioners and interfere with the communications issued.

32. In view of the above, the writ petitions except Writ Petition No. 2958 of 2019 and Writ Petition No. 8464 of 2017 as such are dismissed, however, with no order as to costs.

33. In so far as Writ Petition No. 2958 of 2019 and Writ Petition No. 8464 of 2017 are concerned, in these writ petitions, the petitioners are seeking implementation of the Government Resolution dated 20th June, 2014 and implementation of the provisions of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009.

34. We have already dismissed the petitions filed by the petitioners challenging the adverse communications upon not possessing the T.E.T. qualification. In view of that, no separate orders are necessary to be passed in Writ Petition No. 2958 of 2019 and Writ Petition No. 8464 of 2017. Same as such are disposed of.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

35. At this stage, the learned counsel for petitioners request for continuation of interim orders.

36. The said request is opposed by the learned Additional Government Pleader for respondent/State and the learned counsel for respective respondents.

37. Considering the fact that in these matters interim orders are in operation since long, we continue the said interim orders for further period of four (04) weeks from today.

38. Needless to state, on lapse of four (04) weeks period, interim protection granted by this Court in present matters shall automatically stand vacated.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/June 21