



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

(3) WRIT PETITION NO. 4321 OF 2023

Samina Amin Shaikh ...Petitioner
Versus
Anjuman-I-Islam Peermohomed High School
Through Chairman And Ors. ...Respondents

Mr. Vaibhav Thorave i/b. Mr. Anwar Shaikh for the Petitioner.
Mr. Chowdhari Moin i/b. Mr. Arvind Kothari for the Respondent Nos. 1
and 2
Mr. S. B. Kalel, AGP for Respondent Nos. 3 and 4-State

**AND
(5) WRIT PETITION NO. 16423 OF 2023**

Stephie Sushant Ransing @ Stephie Sebastian John ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
(5) WRIT PETITION NO. 5439 OF 2017
WITH
(5) WRIT PETITION NO. 5452 OF 2017
WITH
(5) WRIT PETITION NO. 1207 OF 2024**

Mr. Sanjeev Deore a/w. Ms Suchita Pawar, Mr. Jitendra Pagare and Mr.
Navin Singh for the Petitioner in WP/16423/2023
Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Vinayak R.
Kumbhar, Mr. Rajendra B. Khaire, Mr. Aniket S. Phapale i/b. Mr. Mandar
Bagkar for the Petitioners in WP/5439/2017 and WP/5452/2017
Mr. Rahul S. Kadam for the Petitioner in WP/1207/2024

Mr. Abhijeet Naik, AGP for the Respondent-State in all Petitions.
Mr. Suresh Kamble for the Respondent No. 2 in WP/ 5439/2017 and
WP/ 5452/2017
Ms. Chaitrali Deshmukh for the Respondent Nos. 4 & 5 in
WP/1207/2024

AND
(6) WRIT PETITION NO. 16475 OF 2023

Nazish Farhana Abdul Rehman Shaikh	...Petitioner
Versus	
The State Of Maharashtra & Ors.	...Respondents

Adv. Satish S. Raut for the Petitioner.
Mr. V. Mali, AGP for the Respondent-State

AND
(8) WRIT PETITION NO. 486 OF 2024

Monali Raviraj Musale	...Petitioner
Versus	
The State Of Maharashtra And Ors.	...Respondents

Mr. A. R. Kapadnis for Petitioner.
Mr. V. M. Mali, AGP for Respondent-State.

AND
(9) WRIT PETITION NO. 1556 OF 2024

Yateemkhana and Madrassa Anjuman-E-Khairul Islam and Others	... Petitioners
versus	
State of Maharashtra and Others	... Respondents

Mr. Rahul S. Kadam for the Petitioners.
Ms. Nisha Mehra, AGP for the Respondent -State.
Ms. Chaitrali Deshmukh for the Respondent Nos. 4 & 5.

AND
(10) WRIT PETITION NO. 1566 OF 2024

Vijaykumari R Yaram	Petitioner
V/S	
The President / Secretary, Subhash Nagar	
Telugu Shikshan Mandal And Ors	Respondents

Ms. Deepali Deherkar for the Petitioner
Ms Nisha Mehra, AGP for Respondent-State

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 18 JUNE 2024

P.C.:

1. In this group of Petitions first common factor is the rejection of the proposals submitted by the Management in favour of the employees on the ground that they have not passed the Teachers Eligibility Test (for short "*the TET*") within the stipulated period. Second common factor is that the employees are working in the minority institutions.
2. The State of Maharashtra has prescribed that teachers must pass the TET on or before a particular date. If they do not pass the said test, the approval to their proposals cannot be granted.

3. Learned Counsel for the parties have drawn attention of this Court to the various orders passed by the Division Benches of this Court in which view is taken as to whether the stipulation to pass the TET would apply to the employees working in the minority institutions in reference to their rights under Article 30 of the Constitution of India.

4. The Division Bench of this Court in case of *Azad Education Society, Miraj through its President vs State of Maharashtra and Others* (Writ Petition No. 4640 of 206 order dated 12 December 2017) has taken a view that this stipulation does not infringe the rights of the minority institutions and therefore found no fault with the Government Resolution dated 23 August 2013. As against this decision dated 12 December 2017, Special Leave Petition is filed bearing Special Leave No. to Appeal (C) No. 2408 of 2018, which is pending.

5. There are other decisions where contrary view is taken. In Writ Petition No. 6894 of 2023 (*Sadaf Imamoddin Massod vs. State of Maharashtra & Ors*) with Writ Petition No. 6895 of 2023 (*Ansari Yasmin Nasim Ahmed vs. State of Maharashtra & Ors*) the Division Bench by order dated 2 November 2023 after considering the earlier decision and also the decision in case of *Azad Education Society, Miraj through its President (supra)* concluded that the communication issued by the Deputy Director regarding the stipulation of providing for TET examination should not have been applied to the minority institutions therein.

6. The learned AGP informs that as against this decision the State Government has filed a Special Leave Petition. Learned AGP points out that there are around 30 Special Leave Petitions filed arising from this view taken by the Division Benches of this Court. Though learned Counsel for the Petitioners have sought to contend that view taken in case of *Sadaf Imamoddin Massod (supra)* is not stayed and has distinguished the decision in case of *Azad Education Society, Miraj through its President (supra)*, the fact remains that the entire issue is now under consideration of the Hon'ble Supreme Court. Learned AGP states as per instructions that the matters came up on 2 May 2024 and are now adjourned to 23 July 2024.

7. In light of this position, we deem it appropriate, at this stage, to defer the hearing of this group of Petitions on 5 August 2024 under the caption "For Directions". In case, any decision is rendered prior to the next date, liberty to apply.

Later at 2.30 PM

8. The learned AGP mentioned the matter and stated that the State Government has not filed any Special Leave Petition challenging the order passed by the Division Bench in Writ Petition No. 6894 of 2023 and Writ Petition No. 6895 of 2023 or for that any Special Leave Petition challenging the view that TET examination will not apply to minority institutions and this statement was incorrectly made and tenders

apology.

9. If that be the position, the State will address the Court as to why this Court should not follow the view taken by the Division Bench in case of Writ Petition No. 6894 of 2023 with Writ Petition No. 6895 of 2023.

10. In light thereof, the date of hearing of these Petitions is preponed to **15 July 2024**.

11. Let the stand on behalf of the State be placed on record by the Secretary, Education Department as it will affect other institutions.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)