



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.13586 OF 2025

Shri. Vivekanand Ramrao Hample,
Age-31 years, Occu:Service as
Shikshan Sevak/Teacher,
R/o-C/o-Master Dinanath Mangeshkar
Secondary and Higher Secondary Vidyalaya,
Somthana, Taluka-Naigaon,
District-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
School and Education Department,
Mantralaya, Mumbai-32,
- 2) The Education Officer (Secondary),
Zilla Parishad, Nanded,
- 3) Master Dinanath Mangeshkar
Secondary and Higher Secondary
Vidyalaya, Somthana, Taluka-Naigaon,
District-Nanded, Through its
Headmaster

...RESPONDENTS

...
Mr. A.V. Patil (Indrale) Advocate for Petitioner.
Mr. R.B. Dhaware, A.G.P. for Resp. Nos. 1 and 2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 14th NOVEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. The present petition is filed for following reliefs :-

“(B) By issuing writ of certiorari or any other appropriate writ, order or directions, the impugned communication/order dated 28/07/2025, issued by respondent No.2 Education Officer (Secondary), Zilla Parishad, Nanded, thereby rejecting the proposal of petitioner for approval to the appointment on the post of Shikshan Sevak in respondent No.3 school, be quashed and set aside. Consequently, the respondent No.2 be directed to grant approval to the appointment of the petitioner since, from his initial date of appointment and accordingly, the petitioner be paid all the admissible arrears of salary as well as regular salary and for that purpose necessary directions be issued.”

2. Heard the learned Advocate appearing for the petitioner and the learned AGP appearing for respondent Nos.1 and 2.

3. The learned Advocate for the petitioner submits that vide appointment order dated 5th July 2025, the petitioner came to be appointed as *Shikshan Sevak*, after following due procedure of law, in respondent No.3 school. Respondent No.3 school is being run by “Vidya Vikas Shikshan Prasarak Mandal”, Somthana, Taluka-Naigaon, District-Nanded, which is recognized as a minority institution under Article 30 of the Constitution of India.

4. In view of the appointment of the petitioner, respondent No.3 school submitted proposal before respondent No.2 and thereby sought approval to the appointment of the petitioner, however, it came to be rejected by impugned order dated 28th July 2025, issued by respondent No.2, on the sole ground that the petitioner is not possessing TET qualification and he being appointed to teach 5th standard, he must possess the qualification of TET.

5. Learned Advocate for the petitioner relies on the recent decision of Hon'ble Apex Court in ***Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, 2025 LiveLaw (SC) 861***, wherein for all other institutions, the qualification of the teacher would be successful completion of TET examination was upheld, however, as regards the minority institutions are concerned, the reference has been made to the Larger Bench. In fact, it was on the basis of the doubt expressed as to whether the decision in ***Pramati Educational and Cultural Trust vs. Union of India; (2014) 8 SCC 1***, has been correctly decided in respect of the exemption of the application of the Right of Children to Free and Compulsory Education Act, 2009,(in short, "RTE Act"),

to minority schools whether aided or un-aided, falling under Clause 1 of Article 30 of the Constitution of India.

6. When the reference is still pending, there ought not to have been rejection and further it was specifically observed in the said decision by the Hon'ble Supreme Court that till the reference is decided, there shall be exemption of the schools, which are by minority, whether religious or linguistic, from the provisions of the RTE Act.

7. The learned Advocate for the petitioner further relies on the decision in *Sadaf Immamoddin Masood vs. the State of Maharashtra and Others*; Writ Petition No.6894 of 2023, decided on 02.11.2023, *Ekta Education Society and Others vs. the State of Maharashtra and Another*; Writ Petition No.3755 of 2023, decided on 12.03.2024, *Zakir Husain Marathi Primary School Mukund Nagar, through Rehman Shafi Kazi vs. the State of Maharashtra and Others*; Writ Petition No. 8891 of 2018, decided on 29.08.2019, wherein the question of applicability of TET Examination to the minority institutions was considered.

8. The learned AGP contends that the factual situation is stated in the impugned order, which is in consonance with the Government Resolutions.

9. The fact, which cannot be ignored, is that respondent No.3 school is run by a minority society in view of the certificate issued by the State Government in its Minorities Development Department, dated 7th August 2018.

10. The advertisement for the post appears to have been issued and then after following the procedure, petitioner came to be appointed. In the impugned order, the only objection was in respect of TET examination, as it was found that the petitioner had not passed TET examination. Now, there is a decision wherein there is a clarity given regarding applicability of RTE Act and the TET qualification in ***Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, (supra)***. Paragraph No. 214 of the decision is very much clear which runs thus :-

"214. Per the detailed discussions above and resting on the same, we hold that the provisions of the RTE Act have to be complied with by all schools as defined in Section 2(n) of the RTE Act except the schools established and administered by the minority – whether religious or linguistic – till such time the reference is decided and subject to the answers to the questions formulated above under section VII. Logically, it would follow that in-service teachers (irrespective of the length of their service) would also be required to qualify the TET to continue in service."

11. Therefore, till the reference is decided, the provisions of

RTE Act are required to be complied with by all the schools as defined in Section 2(n) of the RTE Act, except the schools established and administered by the minority. The said reason quoted in the impugned order cannot be said to be a justifiable ground for rejection.

12. In view of the above circumstances, the Writ Petition stands partly allowed. The impugned order dated 28th July 2025 is hereby quashed and set aside.

13. We direct respondent No.2 to consider the proposal forwarded by respondent No.3 school in respect of appointment of petitioner, without insisting on TET qualification, in view of *Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, (supra)*.

14. Such decision to be taken by respondent No.2 within a period of one month from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE