



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 12347 OF 2025

Ashok Shikshan Sanstha Shindefal Through Its Secretary And Others

VERSUS

The State Of Maharashtra Through Its Secretary And Others

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Advocate for Petitioner : Mr. K.P. Rodge

AGP for Respondents 1,2 : Mr. N.S. Tekale

Mr. S.B. Pulkundwar, advocate for respondent no.3.

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

Dated : December 15, 2025

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

“B) By a writ of certiorari or any other appropriate writ or direction in the like nature, the impugned order dated 21.7.2025 passed by respondent no.2-Dy. Director of Education so also the order dated 20.8.2024 issued by the respondent no.2 may kindly be quashed and set aside.

C) By a writ of mandamus or any other appropriate writ or direction in the like nature, the respondent nos.2 and 3 may kindly be directed to grant approval to the appointment of the petitioner no.3 as Shikshan Sevak from the date of his initial appointment and release his salary.”

2. Heard learned Advocate for the petitioners, learned AGP for Respondents State and learned Advocate appearing for respondent No.3.

3. The learned advocate for the petitioners submits that the petitioner No.1 is the Educational Trust and a minority institution under Article 30 of the Constitution of India. The petitioner No.2 is the School run by Petitioner no.1 Educational Trust, whereas petitioner no.3 is the employee appointed as 'Shikshan Sevak' in the Petitioner no.2 school run by the petitioner no.1 – Trust. Petitioner No.3 came to be appointed on 9.7.2024 after following due procedure.

4. The proposal was submitted by the petitioner No.2 for the approval of the appointment of petitioner No.3, however, it came to be rejected by impugned order dated 20.08.2024 issued by respondent No.3 and dated 21.7.2025 issued by Respondent no.2 on the sole ground of TET certificate.

5. The learned advocate for the petitioner relies on the recent decision of Hon'ble Apex Court in **Anjuman Ishaat-E-Taleem Trust V/s. 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 V. 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.

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, has been clarified.

7. The learned advocate for the petitioner further relies on the decision in **Sadaf Immamoddin Masood V/s. The State of Maharashtra and Others**; Writ Petition No. 6894 of 2023, decided on 02.11.2023, **Ekta Education Society and Others V/s. 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 V/s. 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 were considered.

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

9. The fact, which cannot be ignored, is that the petitioner No.1 is a registered society and as per the Government Resolution dated 20.06.2003. Ashok Shikshan Sanstha, Shindegal, Tq. Sengaoon District Hingoli has been declared by the State Government as minority institution. The petitioner No. 1 – Trust is running Petitioner No.2-School under the name of Rukhmini Secondary School, Palshi, Tq. Sengaoon, District Hingoli.

10. The advertisement for the post appears to have been issued and then after following the procedure, petitioner No.3 came to be appointed. In the impugned order, there is reference about permission that was granted to advertise the post and the rejection is not on the ground that procedure was not adhered to by the petitioner No. 1 as is contemplated. The only objection was in respect of 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 V/s. 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 of 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 orders dated 21.07.2025 and 20.08.2024 are hereby quashed and set aside.

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

14. Such decision to be taken by respondent No.3 within a period of **one month** from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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