



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13452 OF 2025

1. Pathan Farhat Anjum Aasif Khan
Age: 24 years, Occu.: Assistant Teacher,
R/o. Plot No.01, Patelwadi, Station Road,
Taluka and District Nandurbar-425412
 2. Model Urdu High School,
Through its President,
Iqbal Umar Shaikh
Dhanora Road, Nandurbar,
Taluka and District Nandurbar-425412
- .. Petitioner**

Versus

1. State of Maharashtra
Through its Secretary,
School Education Department,
Government of Maharashtra
Mantralaya, Mumbai – 400 032.
 2. Education Officer (Secondary),
Zilla Parishad, District Nandurbar.
- .. Respondents**

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Mr. Sayyed Tauseef Yaseen, Advocate for the petitioner.
Mr. A. M. Phule, AGP for respondent No.1/State.
Mr. P. D. Suryawanshi, Advocate for respondent No.2 (Absent).

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

DATE : 12 NOVEMBER 2025

ORDER :

. The present petition is filed for following reliefs :-

“B. By issuing appropriate writ of mandamus or any other Writ,
order or direction in the like nature to hold and declare that the

Government Resolution dated 02.09.2024 at Exhibit-D prescribing Eligibility of TET is not applicable to Teachers appointed under Minority Institutes.

C. By issuing Writ of Certiorari or any other Writ, order or direction in the like nature, to quash and set aside the letter dated 18.08.2025 to the extent of refusing the permanent approval at Exhibit-C issued by Education Officer (Secondary).

D. By issuing Writ of Mandamus or any other Writ, order or direction in the like nature, to grant Permanent Approval to the Appointment of Petitioner as Teacher in Petitioner No.2 School with all consequential benefits”

2. Heard the learned Advocate appearing for the petitioners and learned AGP appearing for respondent No.1. Learned Advocate for respondent No.2 is absent.

3. Learned Advocate for the petitioner submits that petitioner No.2 is a government recognized aided school and is also a Minority Educational Institution under Article 30 of the Constitution of India. Petitioner No.1 applied for the appointment as Shikshan Sevak in petitioner No.2 school on compassionate ground on account of death of her mother. The said application was accepted by petitioner No.2 and petitioner No.1 came to be appointed as Shikshan Sevak vide order dated 07.02.2022 after following due procedure.

4. In view of the appointment of petitioner No.1, petitioner No.2 school submitted proposal before respondent No.2 and thereby sought approval for the appointment of the petitioner. The said proposal was accepted vide order dated 31.03.2022 and petitioner No.2 was directed to render her services for three years from 15.02.2022. Thereafter, after successfully completing the probation period, another proposal was sent to the office of respondent No.2/Education Officer on 17.04.2025 seeking approval as Assistant Teacher. However, respondent No.2 vide communication dated 18.08.2025 refused to approve the claim of petitioner No.1 by referring the Government Resolution dated 02.09.2024, which states that Teachers Eligibility Test i.e. TET is mandatory for the candidates seeking appointment on compassionate grounds and asked her to qualify the TET examination within five years. The petitioner further submits that the appointment of petitioner No.1 is prior to Government Resolution dated 02.09.2024 and the same would not be retrospectively applicable to her, on the contrary the Government Resolution dated 20.01.2016 would be applicable.

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 Petitioner No.2 school is run by a minority society in view of the certificate issued by the State Government in its Minorities Development Department, dated 15.02.2012.

10. Petitioner No.1 applied for the post of Shikshan Sevak on compassionate grounds in petitioner No.2 school and then after following the procedure, petitioner No.1 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 18.08.2025 is hereby quashed and set aside.

13. We direct respondent No.2 to consider the proposal forwarded by petitioner No.2 school in respect of appointment of petitioner No.1,

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

scm