



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.14653 OF 2025

Shaikh Tabassumbegam Musa

VERSUS

The State Of Maharashtra And Others

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Advocate for Petitioner : Mr. Shaikh Tarek Mobin H.

AGP for Respondent 1 : Mr. A.M. Phule

Advocate for Respondent 2 : Mr. U.B. Bondar

Advocate for Resp.No.3 and 4 : Mr. Sartaj H. Pathan

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

Dated : December 15, 2025

ORDER :-

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

“A) Hold and declare that the impugned order dated 8.10.2025 bearing outward No.[जा.क्र. जिपला/शिक्षण/कार्या-१२/कावि ७७०/२०२५](#) rejecting the approval to the post of Shikshan Sevak of Petitioner is illegal, arbitrary and bad in law and quash and set aside the same by issuing writ of mandamus and/or any other appropriate writ in the like nature and for the purpose issue necessary orders.

B) Issue writ of mandamus and/or any other appropriate writ in like nature thereby direct the respondent No.2 to grant approval to the post of petitioner as ‘Shikshan Sevak’ by quashing and setting aside the impugned communication dated 8.10.2025 issued by respondent No.2 and for that purpose issue necessary orders.”

2. Heard learned advocate for the petitioner, learned AGP for Respondent no.1/State, Mr. Bondar learned advocate appearing for

respondent no.2 and Mr. Pathan, learned advocate for respondent nos.3 and 4.

3. The learned advocate for the petitioner submits that the Respondent no.3 is the educational trust and a minority institution under Article 30 of the Constitution of India. The petitioner is the employee appointed as ‘ Shikshan Sevak’ in the school run by the Respondent No.3 – trust, namely JTS Bahuuddeshiya Sanstha, Latur. Petitioner came to be appointed on 10.08.2024 after following due procedure.

4. The proposal was submitted by the Respondent No.3 for the approval of the appointment of petitioner, however, it came to be rejected by impugned order dated 08.10.2025 issued by respondent No.2 on the sole ground that she is not possessing the TET qualification.

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. The learned advocate for respondent No. 2 supports the impugned order by relying on the Government Resolutions.

9. The fact, which cannot be ignored, is that the Respondent no.3 is a registered society. Respondent no.3 has been declared by the State Government as minority institution. The Respondent no.3-Trust is running a school under the name of Ahmediya Urdu Primary School at Raes Colony, Latur.

10. In the impugned order the only objection was that petitioner is not possessing the TET qualification. 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 communication dated 08.10.2025, is hereby quashed and set aside.

13. We direct respondent No.2 to consider the proposal forwarded by Respondent no.3 in respect of appointment of petitioner, 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.2 within a period of **one month** from today.

(HITEN S. VENEGAVKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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