

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15647 OF 2024

Jagruti Ravindra Mhatre Nee
Jagruti Dhanaji Patil

... Petitioner.

V/s.

The State of Maharashtra & ors.

... Respondents.

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Vinayak R. Kumbhar, Mr. Rajendra B. Khaire, i/b. Ashwini Bandiwadekar, Advocate for Petitioner.

Mr. P.P. Kakade, Addl. G.P. with Ms. D.S. Deshmukh, AGP for Respondent Nos. 1 to 3/State.

CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.

DATE : 7th OCTOBER, 2025

FINAL ORDER :

1. Heard Mr. Bandiwadekar, learned Senior Advocate for the Petitioner and the learned AGP for the State.

2. The Petitioner has put forth prayer clauses (b), (c) and (d) as under :

b/ By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 24.5.2023 passed by the Respondent No. 3, and accordingly the Respondent No. 3 may be directed to grant

approval to the transfer of the Petitioner as a Shikshan Sevak in the aided Secondary Section of the Respondent No. 5 School w.e.f. 4.12.2018 to 3.12.2021 and to release the grant-in-aid for payment monthly honorarium for the said period of 3 years.

c) By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to grant further approval to the Petitioner as a Full Time Assistant Teacher in the Secondary Section of the Respondent No. 5 School [aided] w.e.f. 4.12.2021 in pay scale, and to release the grant-in-aid for payment of salary to the Petitioner in pay scale, together with all arrears from 4.12.2021.

d) By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 2 to grant permission to enter the name of the Petitioner in Shalartha Pranali as a Shikshan Sevak / Assistant Teacher on fully aided post in the Respondent No. 5 School, with all consequential benefits.

3. Having considered the submissions of the learned Senior Advocate for the Petitioner and the learned AGP, we are not required to advert to their entire submissions. Suffice it to say that the Management had forwarded the proposal for the transfer of the Petitioner from the Unaided Establishment to the Aided Establishment on 1.4.2021. By the Order dated 24.5.2023, the Education Officer (Secondary) had rejected the proposal for the reason that on the date she took up the proposal for decision, there was a stay on the transfer of the teachers from the Higher Secondary Establishment to the Secondary Establishment.

4. The Petitioner has acquired the qualifications of M.A.

(History), M.A.(Marathi) and B.Ed.(History/Marathi). The Petitioner was appointed as a teacher on the Unaided Establishment with effect from 6.8.2009. Her appointment was approved on 23.8.2013. The Management transferred her from the Unaided Establishment to the fully Aided establishment in the Secondary Section, on 4.12.2018.

5. There are two issues that need consideration. **Firstly**, in the light of the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 1385 of 2025 and connected Appeals (*Anjuman Ishaat-E-Taleem Trust v/s. State of Maharashtra & Ors.*) dated 1st September, 2025, TET is held to be mandatory even for those teachers who are appointed prior to the advent of the TET mandate. The issue pertaining to minority institutions has been referred to a larger bench. As such, those who do not have TET qualification (having less than 5 years to retire), are required to acquire the same within 2 years, if they are desirous of seeking promotion in their service cadre. The rest have to acquire the TET within 2 years or face termination.

6. A similar issue was dealt with by this Court while delivering the Judgment dated 11th September, 2025 in *Sagar Dattatray Chorghe v/s. State of Maharashtra and Others*, Writ Petition No. 7943 of

2023. It was recorded in the said Judgment from paragraph Nos. 11 to 16, as under :

“11. In view of the said Judgment delivered in Anjuman Ishaat-E-Taleem Trust (Supra), the Hon’ble Supreme Court concluded as under :-

a) In-service teachers (irrespective of the length of their service), would be required to qualify the TET to continue in service.

b) By invoking Article 142 of the Constitution of India, those teachers who are in service prior to the advent of the RTE Act, having less than five years service left on the date of the Judgment of the Hon’ble Supreme Court (1st September, 2025), may continue in service till the age of superannuation without qualifying the TET. Such teachers would not be entitled for promotion. If such teacher aspires for promotion, he will have to qualify the TET.

c) In-service teachers recruited prior to the enactment of the RTE Act and having more than five years for superannuation, shall be obliged to qualify the TET within two years from the date of the order (1st September, 2025), in order to continue in service. If any such teacher fails to qualify the TET within the two years, he shall have to quit service or he may be compulsorily retired with payment of terminal benefits. To qualify for the terminal benefits, such teacher must have put in the qualifying period of service, as is required under the rules. If any teacher has not put in the qualifying service and there is some deficiency, his/her case may be considered by the appropriate department in the Government upon a representation being made.

d) Candidates aspiring for appointment or those in-service teachers aspiring for promotion, must qualify the TET.

12. The issue raised before us is as to what would be the fate of those in-service candidates, who joined employment without the TET/CTET qualifications, after TET was made compulsory and

have not acquired the said qualification till today or have acquired it before the Judgment of the Hon'ble Supreme Court in Anjuman (Supra) ?

13. *The Judgment of the Hon'ble Supreme Court in Anjuman Ishaat-E-Taleem Trust (Supra), does not reveal that this aspect was addressed to the Hon'ble Supreme Court. While dealing with cases of in-service candidates, who joined prior to the said test becoming mandatory, the Hon'ble Supreme Court ruled that those teachers, who have less than five years service left, need not acquire the qualification, unless they desire promotion. Those having more than five years to retire, shall acquire the TET qualification within two years from the date of the Judgment. If they fail to qualify the TET within the said time, they shall be removed from employment or can be compulsorily retired.*

14. *Drawing guidance from this conclusion, we are of the view that ends of justice would be met and the dictum of the Hon'ble Supreme Court in Anjuman Ishaat-E-Taleem Trust (Supra), would stand followed, if we hold that those candidates who have acquired the TET before the judgement in Anjuman (supra) was delivered, can safely continue in employment, keeping in view the direction of the Hon'ble Supreme Court granting 2 years period to acquire the said qualification. If 2 years time from the date of the said Judgment has been granted to such candidates, then, those who have acquired the said qualification before the pronouncement of the judgment in Anjuman (supra), can surely be protected.*

15. *We, therefore, conclude that in cases wherein, teachers who joined service after the introduction of the mandate of TET, did not acquire the TET qualification prior to 31st March, 2019 and have acquired the qualifications prior to the Judgment of the Hon'ble Supreme Court in Anjuman Ishaat-E-Taleem Trust (Supra), dated 1st September, 2025, can be continued in service and they would also be entitled for promotion.*

16. *Needless to state, in all above cases, what is said about the State TET, would also apply to the CTET, meaning that candidates who have acquired CTET will be at par with the candidates who have acquired the State TET."*

7. The Petitioner has made a solemn statement that she is not involved in the 2018 or 2019 TET Exam Result Scam.

8. The **second issue** that needs to be considered is whether a person working in the Unaided Establishment in the Higher Secondary section can be transferred to the Secondary Section only because a post in the Aided Establishment has fallen vacant. No reasons are assigned by the Education Officer for dealing with this issue on its merits, in the impugned order. What has been observed is that because there was a stay, the proposal could not be considered, as in 2023.

9. The learned Senior Advocate for the Petitioner has raised an issue as regards applicability of Rule 41A of the Maharashtra Employees of Private Schools Rules, 1981 (for short “MEPS Rules, 1981”) considering that the Petitioner’s transfer proposal was of 2018, which was taken up for adjudication after 5 years by the Education Officer on 24.5.2023.

10. Besides this contention, we find that a mere reference to a Government Resolution would not be enough. The Education Officer who is an adjudicating authority in so far as the quasi judicial matters are

concerned, is supposed to write reasons. In hundreds of cases, we have directed that Education Officers or Deputy Directors of Education should assign reasons in support of their orders. It appears that our dictum is falling on deaf ears.

11. In view of the above, **this Writ Petition is partly allowed.** The impugned order is set aside with the following observations/directions:-

a] Since the Petitioner has acquired the C-TET qualification in December, 2024, if she is held to be entitled for transfer to the Aided Establishment in accordance with Rules, she would be entitled for the salary grants payable from the State exchequer, from the date of the acquiring of the TET qualification.

b] In so far as the issue about whether the Petitioner's transfer from the Unaided Establishment from the Higher Secondary Section to the Aided Establishment in the Secondary Section could be permissible as on the date of the transfer, we direct Respondent No. 3 to reconsider this issue. To facilitate such a rehearing, we direct the Management to tender a written justification within a period of 30 days from today, on the proposal dated 1st April, 2021 for transferring the Petitioner from the Higher Secondary Establishment (unaided) to the

Secondary Establishment (aided).

c] Thereafter, Respondent No. 3 would deal with the said justification of the Management and deal with the proposal in accordance with the law as it stood on 1st April, 2021. Let a reasoned order be passed.

d] Needless to state, as on the said date, if the Petitioner is eligible, a notional approval be granted and a pay fixation would also be carried out notionally. However, no increments would be added in view of the fact that the Petitioner was not TET/C-TET qualified. Such monetary benefit would be available to the Petitioner with effect from December, 2024 when she passed the C-TET Examination.

e] We expect the Third Respondent to pass a reasoned order within 45 days of the tendering of the justification by the Management.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)