

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1269 OF 2025

1. Pandharinath Dilip Kanojia
Age: 32 years, Occ. Nil
Residing at Kokani Pada, Alonde,
Vikramgad, Palghar 401605.
2. Surekha Lahu Jadhav
Age: 34 years, Occ. Nil
Residing at Kumdal, Raisal,
Tal. Wada, Palghar 401605.
3. Monika Vasant Vanga
Age: 31 years, Occ. Nil
Residing at Post Talwada,
Vikramgad, Palghar 401607.
4. Hemant Prakash Gavit
Age: 32 years, Occ. Nil
Residing at Post Devgaon,
Tal. Wada, Palghar 421312.
5. Bharati Kashiram Doke.
Age: 33 years, Occ. Nil
Residing at Post Jawhar,
Tal. Javhar, Palghar.
6. Nilam Bhaskar Bhoje.
Age: 32 years, Occ. Nil
Residing at Post Rampur,
Gavitpada, Post Khoste,
Vikramgad, Palghar 401605.
7. Avinash Jayram Valvi.
Age: 32 years, Occ. Nil
Residing at Post Ambesari,
Nagzari, Tal. Dahanu, Palghar.
8. Pankaj Laxman Gahala.
Age: 33 years, Occ. Nil
Residing at Post Kapshi,
Post Vangaon, Opp. Marathi
School, Bavipada,
Tal. Dahanu, Palghar.
9. Swati Hari Gavit

- Age: 31 years, Occ. Nil
Residing at Post Dhohare pada,
Post Dhanoshi, Tal. Jawhar, Palghar.
10. Gitanjali Sadanand Mahale
Age: 33 years, Occ. Nil
Residing at Post Kokani Pada, Alonde,
Vikramgad, Palghar 401605.
 11. Swati Lakshaya Sambhar
Age: 33 years, Occ. Nil
Residing at post Kasa,
Bhisenagar, Tal. Dahanu, Palghar.
 12. Mohan Navasha Khutade
Age: 33 years, Occ. Nil
Residing at Kokani Pada, Alonde,
Vikramgad, Palghar 401605.
 13. Kailas Arjun Khutade
Age: 34 years, Occ. Nil
Residing at post Borale,
Tal. Jawhar, Palghar.
 14. Suvarna Govind Nangare
Age: 30 years, Occ. Nil
Residing at post Sutrakar,
Kokatpada, Tal. Talasari, Palghar.
 15. Milind Shankar Borse
Age: 25 years, Occ. Nil
Residing at post Tarecha Kamb,
Tal. Jawhar, Palghar.
 16. Surekha Ganpat Jadhav
Age: 34 years, Occ. Nil
Residing at post Juni Jawhar,
Kashiwali No. 2,
Tal. Jawhar, Palghar.
 17. Vaishali Ramesh Ghatal
Age: 29 years, Occ. Nil
Residing at post Pimproli,
Tal. Wada, Palghar.
 18. Manoj Govind Khotare
Age: 31 years, Occ. Nil
Residing at post Bhanpur, Utavali,
Tal. Vikramgad, Palghar.
 19. Nayana Dipak Bhoys

- Age: 33 years, Occ. Nil
Residing at post Dehare, (Jalvahir),
Tal. Jawhar, Palghar.
20. Vishakha Jayram Ghegad
Age: 31 years, Occ. Nil
Residing at post Ozar-Peranamba,
Tal. Jawhar, Palghar.
21. Vandana Ramu Sathe
Age: 34 years, Occ. Nil
Residing at post Bandhghar, Meghapada,
Tal. Dahanu, Palghar.
22. Sudha Krushna Sathe
Age: 34 years, Occ. Nil
Residing at post Bandhghar, Meghapada,
Tal. Dahanu, Palghar.
23. Vilas Shankar Narlya
Age: 39 years, Occ. Nil
Residing at post Ambesari, Khadkipada,
Tal. Dahanu, Palghar.
24. Sulaxana Vilas Bhurbhure
Age: 32 years, Occ. Nil
Residing at post Gungunpada, Aloande,
Tal. Vikramgad, Palghar.
25. Savita Raghunath Rokada.
Age: 34 years, Occ. Nil
Residing at post Ambesari, Baripada,
Tal. Dahanu, Dist. Palghar. ... Petitioners

Versus

1. The State of Maharashtra
through the Secretary,
School Education Department,
Mantralaya, Mumbai 400 032.
2. The Commissioner (Education),
M.S. Pune, Central Administrative
Building, Pune.
3. Maharashtra State Council of
Education for Examination, Pune,
through its Commissioner,
17, Dr. Ambedkar Marg, Near

4. Lal Temple, Pune- 1.
Zilla Parishad Palghar,
Through Chief Executive Officer,
Having office at the main
Administrative Building, Navali,
District Palghar.
 5. Education Officer(Primary),
Zilla Parishad Palghar,
Having office at the main
Administrative Building, Navali,
District Palghar.
- ... Respondents.

Dr. Uday P. Warunjikar i/b. Mr. Sumit S. Kate, for the Petitioners.

Mr. K.S. Thorat, “B” Panel Advocate for Respondent Nos. 1 and 2.

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

DATE : 25th MARCH, 2025

FINAL ORDER (Per Ravindra V Ghuge, J)

1. The learned Advocate for the Petitioners submits that Respondent No.3 is a formal party and neither there are averments against the said Authority, nor any reliefs being sought qua Respondent No. 3, Maharashtra State Council of Education for Examination, Pune.

2. The report of the Registry indicates that notice on Respondent Nos. 4 and 5 are duly served in the light of the Bailiff’s report. Despite service of notice, Respondent Nos. 4 and 5 i.e. Zilla

Parishad, Palghar, through it's Chief Executive Officer and Education Officer (Primary), have not caused an appearance.

3. The Petitioners have put forth prayer clauses (a) and (b), as under :

“a) This Honourable Court be pleased to call for the record and proceeding of the letter dated 11/10/2024 issued by the respondent no. 1 and after satisfying about the legality, validity and proprieties of the same, be pleased to quash and set aside the same, further direct the respondents to appoint present petitioners in the respondent no. 5 school on such terms as this Hon'ble Court may deem fit and proper.

b) This Honourable Court be pleased to call for the record and proceeding of the letter dated 25/02/2024 issued by the respondent no. 2 and letter dated 22/03/2024, 3/04/2024 and 17/05/2024 issued by the respondent no. 3 herein and after satisfying about the legality, validity and proprieties of the same, be pleased to quash and set aside the clause 14 of the letter dated 25/02/2024 issued by the respondent no. 2 and letter dated 22/03/2024, 3/04/2024 and 17/05/2024 issued by the respondent no. 3 by exercising the power under Article 226 of the Constitution of India, 1950.”

4. All the Petitioners are said to be belonging to various Scheduled Tribes. They have their Tribe Certificates and all the Petitioners have been granted Scheduled Tribe Validity Certificates by the concerned Schedule Tribe Certificates Scrutiny Committee. All of

them are residing in District Palghar which is declared as a Panchayat Extension of Scheduled Area (PESA) under the Panchayat (Extension of Scheduled Areas) Act, 1996. The Petitioners have been issued with necessary certificates by the Project Officer-cum-Assistant District Commissioner (ITBT) of the concerned Taluka in District Palghar, thereby certifying that the area of residence of the Petitioners is included in the Scheduled area under the provisions of PESA Act.

5. It is canvassed that the Petitioners possess the education qualification of B.Ed. They are eligible and qualified to be appointed as teachers in the Primary Schools (D.Ed), so also in the Secondary School/Junior College (B.Ed.). All the Petitioners have passed their Central Teachers Eligibility Test (CTET) in December, 2022 conducted by CBSC, Delhi. The result for the December, 2022 examination was declared on 3.3.2023.

6. The State has issued a Corrigendum dated 14.11.2017 clarifying that a candidate who has qualified the C-TET, would also be eligible for the Teachers' Aptitude and Intelligence Test (TAIT).

7. The Petitioners along with another group of candidates, were before this Court in Writ Petition No. 9826 of 2024 and Writ

Petition No. 11912 of 2024. This Court [Nitin Jamdar (as His Lordship then was) & M.M. Sathaye, JJ] delivered its order on 6.9.2024, concluding in paragraph Nos. 3 to 9 as under :

“3. In Writ Petition No.9286/2024, the contention of the Petitioners that the order covers their cases passed in the case of Hina Kausar Mohammad Riyaz was noted on 18 July 2024, and the matter was adjourned for the learned AGP to take instructions as to the course of action to be adopted in the light of the decision. It was also recorded that in Contempt Petition No.31/2024 in the Aurangabad Bench, the State Government had stated that candidates would be permitted to register on the Pavitra Portal. A similar order was passed in Writ Petition No.11912/2024 on 28 August 2024 calling upon the Respondents to examine the decision of the Aurangabad Bench and if it is covered to take necessary steps. Thereupon, the petitions are placed before us.

4. No reply is filed by the Respondents. To a specific query, it is accepted by the Respondent- State that the order passed by the Aurangabad Bench in Hina Kausar Mohammad Riyaz has not been challenged, modified or varied. It is also an accepted position that a large number of candidates have been granted benefits of the said order. It is also admitted that the facts of the present petitions are identical to the case of Hina Kausar Mohammad Riyaz and other petitions.

5. In the case of Hina Kausar Mohammad Riyaz, the Division Bench at Aurangabad had taken up these writ petitions as a group since a common limited

prayer was sought that the Petitioners be permitted to resort to the registration of self-certification/assessment. The State had taken a stand that the Petitioners, which is the case in present petitions as well, had been found guilty in a scam which took place regarding the Teachers Eligibility Test (TET) and, therefore, they are not entitled to the relief they have sought. The Division Bench negated this contention. The Division Bench observed thus:

“6. There is no dispute before us in all these matters that there are three modes/channels for becoming eligible to appear for the TAIT Exam. The first mode is, a person who has D.Ed qualification and who passes the Teachers Eligibility Test (TET) conducted by the State of Maharashtra, commonly known as the MH-TET. The second mode for being eligible to appear for the TAIT Exam is, that a candidate has D.Ed qualification and has passed the Central TET (CTET). The third mode is that the candidate must be a Graduate and must have B.Ed. Qualifications.

.....

8. We have not permitted such teachers involved in the scam to appear for the TAIT Exam from the channel of the TET qualification, the first channel discussed above. However, those teachers who are alleged to have been involved in the TET scam and who have passed either the C-TET or are Graduates with B.Ed qualification, are not precluded from appearing for the TAIT as there is no

provisions cited before us that such candidates should be prohibited for recruitment after passing the TAIT,

.....

12. The learned AGP and the learned Advocates for the Respondents have vehemently opposed these Petitions on the ground that once the names of the Petitioners have appeared in the TET scam, no matter that they are CTET qualified or are Graduates with B.Ed. qualification, they would not be allowed to appear for the TAIT Exam or participate in the recruitment process on the basis that they have passed the TAIT Exam.

13. We find that there is no specific/express bar prescribed either under the Rules or under any GR. A candidate who has cleanly passed the CTET or has acquired the qualification of Graduate + B.Ed., which are the two channels for being eligible for the TAIT Exam, involvement in the TET scam would not water down their results in the other two streams, since they have cleanly passed the said examinations and there is no allegation of malpractices.

14. Therefore, we conclude that if there are candidates whose names are involved in the TET scam and their performances have been cancelled and they are neither CTET nor Graduate plus B.Ed. Qualified, they would not be permitted to appear for the TAIT exam until they are exonerated and

their result of the TET exam is restored, since without passing the TET, these persons cannot be eligible for the TAIT.

.....

19. Insofar as the CTET candidates are concerned, those who have appeared for the exams on or before the date on which the TAIT exams were conducted, they can be considered for the Pavitra portal in view of the policy of the Government, subject to their passing of the CTET. However, those who have appeared for CTET weeks or months after the TAIT Exam was held between February-March, 2023, they cannot be held eligible to appear for TAIT Exams which were held earlier, since the CTET was a requirement for appearing for the TAIT Exam”.

The Division Bench thus noted three modes for becoming eligible to appear for the Teacher Aptitude and Intelligence Test (TAIT) examination. The Division Bench found that even assuming the Petitioners have indulged in malpractices in the TET examination since they would qualify under the other two modes, they are not to be denied relief. The Division Bench held that there was no embargo to appear for the exam even if a candidate is found guilty of malpractices in one mode of the qualification stream. The Division Bench accordingly directed that the Petitioners be permitted to resort to registration of self-certification/ assessment subject to other legal requirements.

6. The opposition of the State that those candidates involved in examination scams should not

be allowed to participate in the process of selection of teachers raises a broader issue which goes beyond statutory qualifications. Teachers play a crucial role in shaping young, impressionable minds. They not only impart academic knowledge, but instill fundamental values of morality, ethics, and civic sense. These values are the very foundation of an orderly society. When an individual engages in cheating in an examination or in a fraudulent scheme such conduct may demonstrate a lack of moral conviction and an absence of the essential value system required to nurture and educate future citizens. When such a person seeks a teaching position, it raises serious concerns. This aspect is especially important when writ jurisdiction is invoked. Broad societal considerations are also relevant when a petitioner calls a superior court to exercise its writ jurisdiction. The mere absence of a legal embargo for a course of action does not necessarily mean that relief under writ jurisdiction should automatically be extended in favour of the petitioner. Writ jurisdiction is a discretionary remedy. The superior court can refuse to extend its equity jurisdiction in a given case. There is a distinction between legal qualifications and the broader moral and ethical implications of appointing individuals who may lack the integrity necessary to fulfill the responsibilities of a teacher. The impact on society, especially on young minds, has to be at the forefront of any judicial consideration. There is one more angle to the issue. It is common knowledge that there are a large number of applicants and limited posts, and there is competition for the posts. Therefore, the candidates who are not tainted can make a grievance that they have been asked to unfairly compete with those who are tainted.

7. *That having been noted, we however have to be mindful of another principle, which is of maintaining judicial consistency. As stated earlier, the State has not challenged the decision in the case of Hina Kausar Mohammad Riyaz and, in fact, has given effect to a large number of similarly situated candidates and no other candidate before us a grievance about discrimination as above. In this state of affairs, as a matter of judicial propriety, we will follow the decision in the case of Hina Kausar Mohammad Riyaz.*

8. *The Respondents are directed to examine and process the cases of each of the petitioners in light of the order passed in the case of Hina Kausar Mohammad Riyaz and take necessary steps as directed in the said order. This direction is restricted to the Petitioners before us.*

9. *The office of the Government Pleader will place a copy of this order before the Principal Secretary, School Education Department, State of Maharashtra, to consider our observations in paragraph 6 above in respect of the issues involved and to take appropriate decisions.”*

8. It is not in dispute that though the Petitioners’ TET 2019 Exams Results were cancelled in view of the allegations that around 7,500 examinees of the TET had indulged in exam result marks manipulations, these Petitioners have passed their C-TET, thereby being eligible for the TAIT.

9. In the Order dated 6.9.2024 delivered in Writ Petition No. 9826 of 2024 and Writ Petition No. 11912 of 2024, this Court at Principal Seat directed the Respondents to examine and process each case of the Petitioners in the light of the order passed in *Hina Kausar Mohammad Riyaz v/s. The State of Maharashtra* (WP No. 8534 of 2023 & Others decided on 14.9.2023 at Aurangabad). This Court directed the Respondents, in paragraph 8, to examine and process each case of the Petitioners and take necessary steps. In paragraph 9, it was recorded that the observations in paragraph 6 of the said order should also be considered. From the language used in paragraph 6, which starts with “*The opposition of the State that*” indicates that the submissions of the learned AGP were recorded in paragraph 6. Be that as it may, we do not wish to venture into analyzing as to what was desired to be said in paragraph 6. Suffice it to say that the Principal Seat followed the view taken by the Aurangabad Bench in *Hina Kausar* (supra) as has been observed in paragraphs 7 and 8, reproduced above.

10. We have perused the affidavit in reply filed by Shri Tushar Vasantao Mahajan, Deputy Secretary, School Education and Sports Department, Mumbai, dated 20.2.2025 wherein it is canvassed at length on several issues. However, there is no whisper as to whether the

Judgment of this Court in *Hina Kausar* (supra) has been challenged before the Hon'ble Supreme Court or not. So also, it is stated in paragraph 12 that considering the Judgment in *Hina Kausar* (supra), those Petitioners were allowed to register themselves on the Pavitra Portal and lock their preference.

11. Below paragraph 13, Shri Mahajan has averred as under :

“ I say that, considering the observations of the Hon'ble High Court, the Government of Maharashtra i.e Respondent no. 1 on dated 11/10/2024 issued a letter regarding the disqualification of a candidate in getting the appointment order who are involved in TET fraud cases.

It is again humbly submitted here that whatever stated in the letter dated 11/10/2024 is issued by Respondent no. 1 is just, proper and as per the observations of Hon. High Court in the Writ Petitions mentioned in this para.

It is again humbly reiterated that all the Petitioners are not eligible for appointment for the post of Teachers as they are involved in TET scam.”

12. We specifically called upon the learned AGP to state as to whether any FIR has been registered against any of these Petitioners. The answer was in the negative. We then asked the learned AGP as to whether there is any police report or any character certification from any

police authority of any particular area or police station indicating that any offence registered against the Petitioners. The answer was in the negative. We also asked the learned AGP as to whether names of these Petitioners are figuring in any TET Exam Results Scam related FIR. The answer is in the negative.

13. In view of the above, the impression gathered from the impugned order dated 11.10.2024, is that the State Government appears to have followed an alien thought process that the Petitioners are guilty until they prove their innocence. Because their results in the TET Exam Scam have been cancelled, though in the absence of their names from the FIR or in any police report or cyber crime report, the Government declares these Petitioners to be guilty of the exam result scam.

14. In *Hina Kausar* (supra), this Court has recorded the 3 eligibility educational qualifications, by which a candidate would be eligible to register himself on the portal and be a part of the TAIT selection exercise. TET is one of them. If the results of these Petitioners are cancelled to the extent of TET, apparently they are not eligible from that mode. However, if they are eligible through C-TET mode or the post graduation + B.Ed mode, there is no legal impediment. There is no explanation from the State Government as to how these Petitioners can

be branded as offenders without there being any Police report. The impugned order smacks of prejudice against these Petitioners.

15. The learned Advocate for the Petitioners, Dr. Warunjikar, has strenuously canvassed that instead of enabling these tribals from the PESA region to come forward and be a part of the main stream population, all of them have been disqualified, not on the basis of their C-TET qualifications, but on the basis of their TET Exam Results having been cancelled in view of the suspicion that 7500 students have manipulated their TET results.

16. In view of the above, the **Writ Petition is allowed**. The impugned order dated 11.10.2024, is quashed and set aside. Since each of the Petitioners' candidature has to be scrutinized by the appropriate authorities, that we are not venturing into taking a decision under the Writ jurisdiction of this court. We deem it appropriate and judicious to direct the concerned authorities to reconsider the cases of these Petitioners in the light of *Hina Kausar* (supra) and their qualifications of either C-TET or Graduation + B.Ed. Since the State Government has issued a Resolution dated 28.8.20217 permitting appointment of candidates with the caveat of verifying their characters/antecedents within a period of 6 months, that we direct the said authorities to

consider this Government Resolution as well.

17. If any appointment order is issued, provided the Petitioners are found to be eligible in the light of the above directions, it shall be mentioned in the appointment orders that, if any adverse report is received from the police department/cyber crime cell, or if in future any of these Petitioners happens to be convicted for any role in the TET Exams Results Scam of 2019, such appointments would be cancelled. In addition, an affidavit undertaking will be taken from these Petitioners, stating therein that, subject to further legal processes, they would be removed from employment.

18. Considering the communications by the Chief Executive Officer, Zilla Parishad, Palghar addressed to the Commissioner (Education), Maharashtra State, Pune, dated 3.10.2023, 6.10.2023 and 8.8.2024, which are placed on record at pages 85 to 87, let the exercise of reconsideration of the Petitioners' candidatures be completed within a period of 60 days from today.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)