

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

WRIT PETITION NO.12122 OF 2025

Shilpa Narendrapratap Singh)
Age : 39 years, Occ. Teacher)
R/at : R.No.6, Building No.24,)
Model Town, Andheri (E),)
Mumbai)Petitioner

V/s.

1. The State of Maharashtra,)
Government Pleader,)
High Court, Mumbai)
2. The Directorate of Education (Primary))
Through the Director of Education (Primary))
Having Office at 1st Floor, Central Building,)
Dr. Annie Besant Road, Pune – 411 001)
3. The Joint Director of Education (Primary))
Having Office at 1st Floor, Central Building,)
Dr. Annie Besant Road, Pune – 411 001)
4. Municipal Corporation of Greater)
Mumbai, Through the Commissioner,)
Having Office at:)
Municipal Corporation of Greater Mumbai,)
Head Quarter, Mumbai C.S.T. 400 001)
5. The Regional Inspector (School))
Private Primary School Region,)
Office of Deputy Education Power)
(Private Primary School Region))
Office- Trveni Sanagam Municipal School,)
Mahadeo Palav Road,)
Curry Road (E), Mumbai - 12)
6. The Education Officer,)
Municipal Corporation of Greater Mumbai,)
Department of Education,)
Having Office At: Hindu Colony)
Lakhamshi Nappu Marg,)
Dadar (E), Mumbai - 400 014)
7. The Deputy Education Officer)

(Private Primary School))
 Having office at 776, Bhantevadi BMC)
 School Portugiz Church, MTNL Road,)
 Dadar (W), Mumbai - 400 028)
 8. Bai Kabibai and Hansraj Morarji Charity)
 Trust, Through its Secretary, Having Office)
 at 26 Bora Bazar Street,)
 Fort Mumbai – 400 001)
 9. Hansraj Morarji Public School and Junior)
 College, Through its Headmaster, Having)
 Office at Hansraj Morarji Public School)
 D. N. Nagar, Near Bhavan's Campus,)
 Munshi Nagar, Andheri (W))Respondents

Mr. Rahul Kadam a/w. Mr. Vedant Babar for the Petitioner.
 Mrs. Nisha Mehra, AGP for Respondent Nos.1 to 3.
 Mr. Drupad Patil a/w. Mr. R.Y. Sirsikar for Respondent Nos.4 to 6.
 Ms. Manisha Rabhiya, Education Department present.

**CORAM : RAVINDRA V. GHUGE &
 ASHWIN D. BHOBE, JJ.
 DATE : 25th SEPTEMBER, 2025**

ORAL JUDGMENT (PER : RAVINDRA V. GHUGE, J.):

1. Leave to delete Respondent Nos.8 and 9. Deletion be carried out forthwith.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. We have heard the learned Advocates for the respective sides. Considering our extensive order dated 4th April, 2025, passed

in Writ Petition No.4111 of 2025, filed by the present Petitioner, we do not have to advert to the entire contentions of the parties. Suffice it to say that, the Petitioner had already acquired the Central Teacher's Eligibility Test (CTET) qualification on 26th February, 2021, and we had issued directions below paragraph 11 in the said order dated 4th April, 2025, as under :

(a) The Petitioner would tender an affidavit undertaking that, she would abide by the conclusions that would be drawn by the Hon'ble Supreme Court, and if the verdict is adverse to those teachers who do not have the TET/CTET qualification or have cleared the CTET/TET after 31st March, 2019, or as the case may be, they would abide by the same without raising any cause of action.

(b) Let such affidavit undertaking be filed in this Court within 15 days from today and a copy be tendered to the concerned Education Officer within the same timeline.

(c) Considering the above, the proposal of the Petitioner as Assistant Teacher would be accepted for granting conditional Approval in the light of the TET/CTET qualification acquired after the cut off date and in view of the undertaking to be filed. Thereafter, the pending proposal seeking Shalarth ID would be dealt with and in view of the affidavit undertaking, the Shalarth ID would be allocated. Let this exercise be completed within a period of 45 days from today.

(d) If an adverse order is passed by the Hon'ble Supreme Court by which the teachers are covered by clause (a), the State Government would not recover the salaries already paid to them, since

they have worked for those tenures and they have earned their salaries for performing their duties.

(e) In the event, the candidates like the Petitioner are protected by the Hon'ble Supreme Court's conclusions and they are held to be qualified to continue in employment, they would be entitled for all service benefits like promotions, increments, etc.

4. The Petitioner claims to be working in a Minority Institution.

5. Considering the law laid down by the Hon'ble Supreme Court in the case of ***Anjuman Ishaat-E-Taleem Trust v/s. The State of Maharashtra***¹, a candidate who acquires the qualification of Teacher Eligibility Test (TET), would be entitled for promotion/salary benefits. Relying upon ***Anjuman Ishaat-E-Taleem Trust*** (supra), this Court has delivered a judgment in the case of ***Sagar Dattatray Chorghe v/s. State of Maharashtra and Ors.***²

6. Respondent No.5 has committed a solitary error in the impugned order dated 31st July, 2025, by approving the appointment of the Petitioner as a Shikshan Sevak from the date she acquired the

1 Judgment dated 1st September, 2025 in Civil Appeal No.1385 of 2025 and connected Appeals

2 Judgment dated 11th September, 2025 in Writ Petition No.7943 of 2024 along with Writ Petition No.861 of 2025

CTET. The Petitioner was appointed as Shikshan Sevak on 14th February, 2014. After three years, she became an Assistant Teacher with effect from 14th February, 2017. If the Institution is non-grantable, she would have no right to claim monetary benefits from the State exchequer. However, if the Institution is grant-in-aid, such a candidate would be entitled to the monetary benefits from the taxpayers' money (salary grants), only after becoming eligible to stake a claim for such salary grants. The Petitioner became eligible to earn salary from the salary grants available to the Institution from 26th February, 2021, when she acquired the CTET qualification.

7. The learned Advocate for the Petitioner submits that when the post on which the Petitioner was appointed was a grant-in-aid post, she had a right to the monetary benefits from the date she became an Assistant Teacher.

8. We find this submission to be fallacious for reasons more than one.

Firstly, the Management should not have recruited a Teacher who was not qualified. This Court could have set aside such an appointment. This Court has shown magnanimity in continuing

such Teachers by taking a sympathetic view. This does not mean that they are entitled to monetary benefits.

Secondly, for the irregularity and illegality of appointing a Teacher without requisite qualifications and who gathered the qualification after seven years of the appointment, as in this case, the State exchequer is not to be burdened with such a financial load because it would amount to, the Management as well as such a Teacher, taking undue advantage of their own wrong.

Thirdly, it is by the grace of the judgment of the Hon'ble Supreme Court that such appointees have survived and the service of the Petitioner has been saved, but not at the cost of the State exchequer, or else it would amount to granting illegitimate benefits to a candidate.

9. In the event the Management is not paying the salary to such employees until they acquired the requisite qualification to be eligible to earn their salaries through the Government grants, we leave this issue open to be dealt with by the concerned employees, vis-a-vis, their Managements.

10. This **Writ Petition is, therefore, partly allowed.** The impugned order is modified by directing Respondent No.5 to grant approval to the appointment of the Petitioner as a Shikshan Sevak with effect from 14th February, 2014, for a period of three years. Thereafter, the Petitioner would be accorded approval as becoming Assistant Teacher from 14th February, 2017. However, the Petitioner would not be eligible for the salary through the salary grants, to which she would be entitled to from 26th February, 2021, when she acquired the CTET qualification and became legally eligible.

11. **Rule is made partly absolute in the above terms.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)