



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 3122 OF 2025
WITH
WRIT PETITION NO. 2922 OF 2025**

WRIT PETITION NO. 3122 OF 2025

- 1) Anjuman Mufidul Islam Education Society, Anjuman Campus, Nandura Road, Khamgaon, Tah. Khamgaon, Dist. Buldhana through its President.
- 2) Anjuman High School, Anjuman Campus, Nandura Road, Khamgaon, Tah. Khamgaon, Dist. Buldhana through its Head Master.
- 3) Alveera Naaz Mohammad Sohail Furquan, Aged about 38 years, Occ.- Service, R/o. Samanvay Nagar-2, Zia Colony, Khamgaon, District Buldhana.

.... **PETITIONERS**

// VERSUS //

- 1) The State of Maharashtra, through its Secretary, School Education and Sports Department, Mantralaya, Mumbai-400032.
- 2) The Deputy Director of Education, Amravati Division, Amravati.
- 3) The Education Officer, (Secondary), Zilla Parishad, Buldhana.

.... **RESPONDENTS**

WITH

WRIT PETITION NO. 2922 OF 2025

- 1) Gramin Mahila Va Balvikas Foundation,
Siddharth Nagar, Teka, Nagpur,
District-Nagpur, through its Secretary.
- 2) Raushan Urdu Upper Primary School,
Piwali Nadi, Wanjari Layout, Nagpur,
through its Head Master.
- 3) Smt. Gulnaaz Begum Sayyad Rafique,
Aged about 36 years, Occ.-Service,
R/o. Plot No.230, Siddharth Nagar,
Teka, Nagpur – 440017.

.... PETITIONERS**// VERSUS //**

- 1) The Deputy Director of Education,
Nagpur Division, Nagpur.
- 2) The Education Officer (Primary),
Zilla Parishad, Nagpur.
- 3) Raushan Education Society,
Azad Nagar, Teka Naka, Nagpur,
through its President.

.... RESPONDENTS

Mr. R. D. Karode, Advocate for Petitioners in both petitions.
Mr. A. S. Fulzele, Additional Government Pleader for
Respondents/State in both petitions.
Mr. S. S. Taram, Advocate for Respondent No.3 in WP
No.2922/2025.

**CORAM : MRS. M. S. JAWALKAR AND
RAJ D. WAKODE, JJ.**

DATE : 16th OCTOBER, 2025.

COMMON JUDGMENT :- (Per : M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Matters are taken up for final hearing at the stage of admission by consent of the parties and on request of the parties.

2. As the issue involved in both the petitions are same, they are taken up to decide together by a common judgment.

3. By the Writ Petition No.3122/2025, the Petitioners are seeking direction to the Respondent No.3 Education Officer (Secondary) Zilla Parishad, Buldhana to grant approval to the appointment of the Petitioner No.3 and to issue Shalarth ID in his name. The Petitioners also seek quashing and setting aside the order dated 08.10.2024 passed by the Respondent No.3.

4. By the Writ Petition No.2922/2025, the Petitioners are seeking direction to the Respondent No.1 Deputy Director of Education, Nagpur and the Respondent No.2 Education Officer (Primary) Zilla Parishad, Nagpur to issue Shalarth ID in the name of Petitioner No.3 within a period of two weeks and release the arrears of monthly salary of Petitioner No.3. The Petitioners also seek quashing and setting aside the Communication dated 09/10/2024 issued by the Respondent No.1 Deputy Director of Education, Nagpur.

5. It is the contention of the Petitioners that the Petitioner Society is a minority institution and Certificate of Minority is placed on record in both the Petitions, therefore, the proposal of Petitioner No.3 for issuance of Shalarth ID cannot be rejected on the ground of not clearing the TET Examination.

6. The Petitioners relied on the Judgment in ***Writ Petition No.7225/2024, Mohd. Yusuf Nek Naam Urdu Shikshan Sanstha, Narsipur, Dist. Akola & Ors. Vs. State of Maharashtra & Anr.***, dated 22/01/2025, wherein in the similar circumstances this Court has directed to furnish undertaking subject to final outcome of the pending case ***Anjuman Ishaat-e-Taleem Trust Vs. State of Maharashtra & Ors.***, reported in ***2025 SCC OnLine SC 1912***, wherein the Hon'ble Apex Court in para 211, 214 to 217 held as under :

“211. Registry is directed to place Civil Appeal Nos.1364 – 1367, 1385 – 1386 and 6364 of 2025 before the Hon'ble Chief Justice of India for appropriate directions.

214. Per the detailed discussion 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 and reference is decided and subject to the answers to the questins formulated above under section VII.

Logically, it would follow the in-service teachers (irrespective of the length of their service) would also be required to qualify the TET to continue in service.

215. However, we are mindful of the ground realities we well as the practical challenges. There are in-service teachers who were recruited much prior to the advent of the RTE Act and who might have put in more than two or even three decades of service. They have been imparting education to their students to the best of their ability without any serious complaint. It is not that the students who have been imparted education by the non-TET qualified teachers have not shone in life. To dislodge such teachers from service on the ground that they have not qualified the TET would seem to be a bit harsh although we are alive to the settled legal position that operation of a statue can never be seen as an evil.

216. Bearing in mind their predicament, we invoke our powers under Article 142 of the Constitution of India and direct that those teachers who have less than five years' service left, as on date, may continue in service till they attain the age of superannuation without qualifying the TET. However, we make it clear that if any such teacher (having less than five years' service left) aspires for promotion, he will not be considered eligible without he/she having qualified the TET.

217. Insofar as in-service teachers recruited prior to enactment of the RTE Act and having more than 5 years to retire on superannuation are concerned, they shall be under an obligation to qualify the TET within 2 years from date in order to continue in service. If any of such teachers fail to qualify the TET within the time that we have allowed, they shall have to quit service. They may be compulsorily retired; and paid whatever terminal benefits they are

entitled to. We add a rider that to qualify for the terminal benefits, such teachers must have put in the qualifying period of service, in accordance with 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 by him/her.”

7. In view of above conclusion, it appears that the reference in respect of the Petitioners in minority institution is pending, the purpose would suffice if directions are issued to furnish the undertaking thereby stating that (a) appointment and approval shall not create any absolute right in their favour, (b) they shall not claim any equity based on it, and (c) if so directed by the Education Officer, the Petitioner No.3 shall refund the entire amount of salary on executing a Bond to that effect to the Education Officer stating that amount paid to Petitioner No.3 from public exchequer shall be redeposited with interest as shall be ordered by the Education Officer. Similar directions were issued in the ***Writ Petition No. 256/2020*** (Hazrat Dada Hayat Qualandar Education Society & Ors. Vs. State of Maharashtra & Ors.) dated 13/06/2024, subject to furnish such undertaking the Respondents were directed to grant approval to the Petitioner No.3, an employee of Petitioner Nos.1 and 2 minority institution

subject to the final outcome of the above referred case **Anjuman Ishaat-e-Taleem Trust** (supra) to the extent of minority institution.

8. As the Petitioner No.3 is ready to furnish such undertaking, the interest of Respondents is protected in terms of above said conditions and undertaking as stated above.

9. The Petitioner No.3, in both the writ petitions, to furnish an undertaking/Bond within a period of three weeks before the respective Education Officer of Zilla Parishad, Buldhana and Zilla Parishad, Nagpur.

10. It is made clear that the approval will be granted on furnishing undertaking, if other conditions are complied with for grant of approval, approval cannot be rejected only on the ground of clearance of TET Examination.

11. The Respondents/Education Officers of Zilla Parishad, Buldhana and Zilla Parishad, Nagpur to forward the proposal after receipt of undertaking within a period of two weeks to the Deputy Director of Education for grant of Shalarth ID. The Deputy Director to take decision within a period of two weeks thereafter.

12. Both the writ petitions stand disposed of in the above terms. No order as to costs.

(RAJ D. WAKODE, J.)

(SMT. M.S. JAWALKAR, J.)

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