



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

WRIT PETITION NO. 2639 OF 2024

- 1) **Shaikh Iqbal S/o Shaikh Aliyar,**
Aged about 39 years, Occ. – Teacher,
Resident of Near Tapeshwari Mandir,
Bagban Pura, Akot, Akola – 444101.
- 2) **Shibya Rana D/o Shamshul Haq Sayyad,**
Aged about 37 years, Occ. – Teacher,
Resident of Qtr no. B 9/71, Opp. NIT
Garden, Binaki Layout, Uppalwadi,
Nagpur – 440026.
- 3) **Naushaba Farhin D/o Altafur Rahman,**
Aged about 45 years, Occ. – Teacher,
Resident of Near Imli Bagh School,
Tatya Tope Nagar, Kamptee,
Nagpur – 441002.

.... **PETITIONERS**

// **VERSUS** //

- 1) **The State of Maharashtra,**
Through the Ministry of School
Education and Sport Department,,
Mantralaya, Mumbai.
- 2) **The Director of Education, (Primary)**
Maharashtra State, Pune.
- 3) **The Education Officer, (Primary)**
Zilla Parishad, Nagpur.
- 4) **The Deputy Director, (Education),**
Nagpur Division, Nagpur.
- 5) **The Headmistress,**
Diwan Urdu Primary School,
(run by Shums Rural Development
Foundation, Nagpur), Roshanbag,
Kharbi, Nagpur.

.... **RESPONDENTS**

Mr. B. G. Kulkarni, Advocate for the Petitioner No.1.
Mr. A. R. Prasad, Advocate for the Petitioner Nos.2 and 3.
Ms. Kavita Bhondge, Assistant Government Pleader for
the Respondents Nos.1 to 4.

**CORAM : SMT. M.S. JAWALKAR, AND
SHRI M.W. CHANDWANI, JJ.**

DATE : 12th NOVEMBER, 2025.

ORAL JUDGMENT : (Per : Smt. M.S. Jawalkar, J.)

1. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.

2. The Petitioners are working as 'Assistant Teacher' in Respondent No.5 school, which is run by the Minority Institution. The certificate to that effect is already placed on record.

3. The grievance of the Petitioners is in respect of the order dated 14.12.2023 and condition to pass Teachers Eligibility Test (TET) by the Petitioners. This issue whether the teachers working in minority institution are required to pass TET examination is already considered by the Hon'ble Apex Court in the case of *Anjuman Ishaat-E-Taleem Trust Vs. The State of Maharashtra & Ors.*, reported in *2025 LiveLaw (SC) 861*, wherein the Hon'ble Apex Court in para Nos. 207 and 208 held as under :

*“207. Sitting in a combination of two Judges, we are not oblivious to the bounds of judicial discipline and the enduring authority of ‘precedents’. Though a Constitution Bench decision of seven Judges of recent origin in **Aligarh Muslim University vs. Naresh Agrawal**, (2025) 6 SCC 1, has upheld a reference made by a Bench of two-Judges directly to a larger Bench of seven-Judges while doubting a Constitution Bench decision of five Judges and, relying on such observations, it seems to be a permissible course of action for us to refer the issues that we propose to formulate hereafter to the Hon’ble the Chief Justice for a reference to a Bench of seven-Judges, we refrain from doing so consciously. We tread this path of making a reference with deference to all previous decisions of Constitution Benches on the manner of making a reference, and not in defiance of what the majority view is in **Aligarh Muslim University** (supra). We are mindful that we can merely doubt the view expressed by a larger Bench; not differ and depart from such view of a larger Bench. **Pramati Educational and Cultural Trust vs. Union of India**, (2014) 8 SCC 1 (supra) being a Constitution Bench decision, we cannot render findings different to what has been expressed therein and direct them to be treated as final. This would only create chaos by making the same binding on all in terms of Article 141 of the Constitution.*

*208. In view of the foregoing discussions, we respectfully express our doubt as to whether **Pramati Educational and Cultural Trust** (supra) [insofar as it exempts the application of the RTE Act to minority schools, whether aided or*

unaided, falling under clause (1) of the Article 30 of the Constitution] has been correctly decided.”

4. This issue is referred to the Larger Bench, however, in view of the opinion expressed, it is not applicable to the minority institution. As issue is referred to a larger Bench, no final verdict is given by the Hon’ble Apex Court till the reference is decided.

5. The learned Counsel for the Petitioners relied on the Judgment of this Court in ***Writ Petition No. 6894/2023 (Sadaf Imamoddin Masood Vs. State of Maharashtra & Ors.)*** dated 2nd November, 2023 with connected matter, wherein the similar set of fact is involved, the said writ petitions are allowed.

6. In view of that, the order dated 14.12.2023 is hereby quashed and set aside. The Petitioner Nos.2 and 3 have already passed the TET examination therefore, there is no question of giving any undertaking. The Respondent No.4 accordingly issue the Shalarth ID to the Petitioner Nos. 2 and 3.

7. So far as the Petitioner No.1 is concerned, as the matter is referred to the larger Bench, his services is to be

continued on furnishing undertaking that he abide by the decision of the Hon'ble Apex Court whatever directions issued in the said matter, he will follow the same. The Respondent No.4 is hereby directed to issue Shalarth ID to the Petitioner No.1 subject to furnishing undertaking. Undertaking be given within a period of two weeks to this Court. Copy of the same be supplied to the Deputy Director of Education.

The Writ Petition stands disposed of in the above terms. No order as to costs. Pending application(s), if any, stand(s) disposed of.

(M.W. CHANDWANI, J.)

(M.S. JAWALKAR, J.)

Kirtak