



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 WRIT PETITION NO.76 OF 2026

1. Shaikh Ghazala Parvin Shaikh
Noor Mohammad
2. Shah Sadiya Mohammad Rafique .. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director (Administration)
Office of Education Commissioner,
Maharashtra State, Pune-01.
3. The Deputy Director of Education,
Nashik Division, Nashik.
4. The Education Officer (Primary)
Zilla Parishad, Jalgaon.
5. The Superintendent of Pay Unit
(Primary), Zilla Parishad,
Jalgaon.
6. Iqra Education Society,
Hajigulam Nabi Nagar,
Mehrun, Jalgaon,
Through its President/Secretary.
7. Dr. Shahin Kazi Urdu Primary School,
Mehrun-Jalgaon.
Tq. And Dist. Jalgaon,
Through Head Master. .. Respondents

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Mr. V. S. Panpatte, Advocate for the Petitioner.
Mr. A. B. Girase, GP for Respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 06 JANUARY 2026

ORDER :

. The present petition has been filed for following reliefs :-

“B) By issue of writ of certiorari or order or direction in the like nature, the impugned order dated 25.06.2025 received on 10.09.2025 (Exhibit-‘M’ Colly.) passed by the Respondent No.2- Deputy Director (Administration) Office of Education Commissioner, Maharashtra State, Pune may kindly be quashed and set aside;

C) By issue of writ of mandamus or order or direction in the like nature, the respondent Nos.1 to 5 may kindly be directed to their earlier approval order dated 28.08.2015 respectively and to continue the services of petitioners as Assistant Teachers in Respondent No.7-school as usual.

D) By a writ of mandamus or any other appropriate writ or order or direction in the like nature, the respondent No.1-State of Maharashtra may kindly be directed to consider the proposal dated 07.08.2023 which came to be recommended by the authorities on 02.11.2023, 02.01.2024 and 20.02.2024 and to start the grants as per the circular dated 25.01.2017 issued by the State of Maharashtra.

E) By issue of writ of mandamus or order or direction in the like nature, the order dated 08.12.2020 (Exhibit-‘H’) passed by

the respondent No.5-Superintendent of Pay Unit may kindly be quashed and set aside with further direction to start and release their arrears and salary since October, 2020 till today as per the policy of Government Resolution dated 19.09.2016 beginning with 20% grants per year i.e. 20% in the first year, 40% in the second year, 60% in the third, 80% in the fourth and 100% grants in the fifth of 2020 onwards.

F) By issue of writ of mandamus or order or direction in the like nature, the respondent No.1 may kindly be directed to see that, petitioner will get her posts approved and her arrears and salary by granting Shalarth I.D. forthwith.”

2. Heard learned Advocate appearing for the petitioners and learned AGP appearing for respondent Nos.1 to 3.

3. Learned Advocate for the petitioners submits that petitioners are working as Assistant Teachers with respondent No.7 school. He submits that respondent No.6 is the registered educational institution. Respondent No.7 School is run by respondent No.6 institution, which is a primary school of standard 1st to 4th classes. During the course of their educational activities, respondent No.6 institution received status of minority institution by order dated 02.09.2011. For the academic year 2013-2014, respondent No.7 school received total staff of 11 posts, out of which 4 posts are aided, whereas 7 posts are unaided. As such all the 11 posts in respondent No.7 school are sanctioned posts. Learned Advocate

for the petitioners further submits that respondent Nos.6 and 7, after following due procedure, appointed the petitioners to the additional posts which are sanctioned by the Education Officer in staff approval. Both the petitioners are having requisite educational qualification. Initially, at the time of appointment, the posts of petitioners were unaided. The petitioners came to be appointed as Assistant Teachers w.e.f. 17.06.2013 for two years probation period in unaided category. He further submits that after getting appointment, respondent No.4 granted approval to their posts by order dated 28.08.2015. As such as per the provisions of Section 5(2-A) of the MEPS Act, they become permanent employees of respondent Nos.6 and 7. Thereafter, their names came to be included in Shalarth I.D. as their posts started receiving 20% grant in aid as per the Government Resolutions dated 01.03.2014 and 25.01.2017. By misconception and misinterpretation, respondent No.5 by order dated 08.12.2020 stopped the payment of the petitioners since October 2020. Thereafter, respondent No.7 has submitted the proposal and requested to issue corrigendum with further request to start their 20% payments and thereafter in stage wise addition. Respondent Nos.3 and 4 have recommended the proposal positively with request to the higher authority to issue correction in the order of grant in aid. However, respondent No.2 by order dated 25.06.2025 rejected their approvals on the count of

non acquisition of TET qualification.

5. Learned Advocate for the petitioner relies on the recent decision of Hon'ble Apex Court in **Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, 2025 LiveLaw (SC) 861**, wherein for all other institutions, the qualification of the teacher would be successful completion of TET examination was upheld, however, as regards the minority institutions are concerned, the reference has been made to the Larger Bench. In fact, it was on the basis of the doubt expressed as to whether the decision in **Pramati Educational and Cultural Trust vs. Union of India; (2014) 8 SCC 1**, has been correctly decided in respect of the exemption of the application of the Right of Children to Free and Compulsory Education Act, 2009, (in short, "RTE Act"), to minority schools whether aided or un-aided, falling under Clause 1 of Article 30 of the Constitution of India.

6. When the reference is still pending, there ought not to have been rejection and further it was specifically observed in the said decision by the Hon'ble Supreme Court that till the reference is decided, there shall be exemption of the schools, which are by minority, whether religious or linguistic, from the provisions of the RTE Act.

7. The learned Advocate for the petitioner further relies on the

decision in **Sadaf Immamoddin Masood vs. The State of Maharashtra and Others**; [Writ Petition No.6894 of 2023, decided on 02.11.2023], **Ekta Education Society and Others vs. the State of Maharashtra and Another**; [Writ Petition No.3755 of 2023, decided on 12.03.2024], **Zakir Husain Marathi Primary School Mukund Nagar, through Rehman Shafi Kazi vs. the State of Maharashtra and Others**; [Writ Petition No. 8891 of 2018, decided on 29.08.2019], wherein the question of applicability of TET Examination to the minority institutions was considered.

8. The learned Government Pleader contends that the factual situation is stated in the impugned order, which is in consonance with the Government Resolutions.

9. The fact, which cannot be ignored, is that respondent No.7 school is run by a minority society in view of the certificate issued by the State Government in its Minorities Development Department, dated 02.09.2011.

10. Petitioners came to be appointed as Assistant Teachers after following the procedure. In the impugned order, the only objection was in respect of TET examination, as it was found that the petitioners had not passed TET examination. Now, there is a decision wherein there is a

clarity given regarding applicability of RTE Act and the TET qualification in *Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, (supra)*. Paragraph No.214 of the decision is very much clear which runs thus :-

“214. Per the detailed discussions 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 the reference is decided and subject to the answers to the questions formulated above under section VII. Logically, it would follow that in-service teachers (irrespective of the length of their service) would also be required to qualify the TET to continue in service.”

11. Therefore, till the reference is decided, the provisions of RTE Act are required to be complied with by all the schools as defined in Section 2(n) of the RTE Act, except the schools established and administered by the minority. The said reason quoted in the impugned orders cannot be said to be a justifiable ground for rejection.

12. In view of the above circumstances, the Writ Petition stands partly allowed. The impugned orders dated 25.06.2025 are hereby quashed and set aside.

13. We direct respondent No.2 to consider the proposals forwarded by respondent No.7 school in respect of approval to the appointment of petitioners, without insisting on TET qualification, in view of ***Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, (supra).***

14. Such decision to be taken by respondent No.2 within a period of one month from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm