



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO.1023 OF 2026

Pathan Neha Anjum Ajmal Ahmed Khan
VERSUS
The State Of Maharashtra And Others

...
Mr. H. I. Pathan, Advocate for the Petitioner.
Mr. S. B. Narwade, AGP for Respondent Nos.1 and 2/State.
...

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

DATE : 26 FEBRUARY 2026

ORDER :

. Present petition has been filed challenging the impugned order dated 29.09.2025 issued by respondent No.2, thereby rejecting the proposal for approval of the appointment of petitioner on the post of Assistant Teacher on two grounds i.e. surplus teachers are yet to be absorbed in view of the sanctioned strength of 2024-2025 and secondly, the petitioner has not qualified TET exam.

2. Heard learned Advocate Mr. H. I. Pathan for the petitioner and learned AGP Mr. S. B. Narwade for the respondent Nos.1 and 2/State.

3. Learned Advocate for the petitioner submits that when the post became vacant, respondent Nos.3 and 4 had made communication to

respondent No.2 seeking permission to fill up the post and by communication dated 26.11.2019, the said permission came to be granted in the words that they should follow the Government Resolution dated 13.07.2016. Therefore, when the appointment is after seeking permission, the question of waiting for absorption of the surplus teacher will not arise.

4. As regards the point for rejection on the ground of non passing of TET exam is concerned, the documents on record show that the respondent No.3 is a minority institution and the certificate has been issued on 24.08.2009. Therefore, in view of the decision in **Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, 2025 LiveLaw (SC) 861**, the subject as to whether the teachers from minority institution should possess qualification of TET is still pending before the Larger Bench of the Hon'ble Supreme Court and, therefore, it cannot be the point for rejection. At the most, it can be said that the approval is subject to the outcome of the decision by the Larger Bench of the Hon'ble Supreme Court.

5. As regards the first reason regarding absorption of surplus teacher is concerned, it appears that permission for advertisement was sought by respondent No.4 and in the communication dated 26.11.2019 it was

stated that it should be done i.e. the recruitment should be done as per the Government Resolution dated 13.07.2016. If at all the list of surplus teacher was available with respondent No.2, then he ought to have sent the names of the teachers from the surplus list on or around 26.11.2019 itself. Further, when the appointment order has been issued on 31.07.2024, it cannot be faulted as the work of absorption has not been completed. Therefore, the impugned order dated 29.09.2025 stands quashed and set aside.

6. The matter is relegated back to respondent No.2, who would decide the said proposal within a period of one month. Respondent No.2 shall not reject the same on the grounds already stated in the impugned order.

7. In view of the above, the writ petition stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm