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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 1786 OF 2026

Mohammed Mazheruddin Iqbal

VERSUS

The State Of Maharashtra And Others

.....

Mr. V.S. Panpatte, Advocate for Petitioner

Mr. S.B. Pulkundwar, AGP for Respondents No.1 to 4

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CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 18 MARCH, 2026

PER COURT [Pet Hiten S. Venegavkar, J.]:-

1. Heard the learned advocate for the petitioner. Learned AGP waives service of notice for respondents No.1 to 4. At this stage, there is no necessity to issue notice to respondents No.5 and 6.

2. The present petition takes exception to the order dated 03.09.2025 passed by respondent No. 3 – Education Officer (Secondary), Nanded. The petitioner further seeks a direction to respondent No. 3 to grant approval to his appointment as Shikshan Sevak in respondent No. 6 – School for the period from 31.12.2008 to 30.12.2021, and thereafter as an Assistant Teacher on a regular pay scale with effect from 31.12.2021. The petitioner also seeks a direction to the respondents to release the due and payable salary by including his name in the Shalarth Pranali through respondent No. 2, within a period of four weeks.

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3. It is the case of the petitioner that he possesses the qualifications of HSC and D.Ed. and, being eligible for appointment as a Shikshan Sevak, came to be appointed in the school of respondent No. 5 with effect from 31.12.2018, against a vacancy arising due to the retirement of a teacher. The petitioner submits that, in terms of Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Act (MEPS Act), respondent No. 5 being a minority institution, there was no necessity to obtain prior permission from respondent No. 3 for filling up the vacant post through a public advertisement. Respondent No. 6 – School submitted the proposal for approval to the petitioner's appointment on 31.12.2018, which was received by respondent No. 3 on 11.02.2019 along with all the relevant documents in proper format; however, the said proposal was kept undecided for several months. Therefore, respondent No. 5 resubmitted the fresh proposal on 24.04.2025 and requested to grant approval to the appointment of the petitioner; however, it is submitted that respondent No. 3, by letter dated 20.06.2025, directed respondents No. 5 and 6 to comply with certain deficiencies by mentioning documents in the communication dated 20.06.2025. In pursuance of the said communication, respondent No. 6 approached respondent No. 3 and submitted a detailed proposal on 21.07.2025 along with the necessary documents, satisfying all the

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deficiencies mentioned in the communication dated 20.06.2025. Thereafter, respondent No. 3 considered the proposal and, by order dated 03.09.2025, remitted the said proposal to respondent No. 6 by mentioning that there was deficiency of certain documents and, hence, approval to the post of the petitioner could not be granted.

4. Learned advocate for the petitioner has invited the attention of this Court to the order dated 03.09.2025 and submitted that the deficiencies mentioned in the said order have already been complied with. He submitted that deficiency No. 1, which requires the petitioner to submit a TET certificate, is not applicable to the petitioner as respondents No. 5 and 6 are minority institutions. He further submitted that the rest of the documents mentioned in clauses No. 2 to 7 have been submitted and there were absolutely no deficiencies. Learned advocate then pointed out the communication annexed to the petition, which mentions the list of documents that have been submitted along with clarification in respect of the documents which are not available. He submits that, in the column dealing with the documents not available and the explanation provided, the issue pertaining to the minority certificate has been explained by stating that the minority certificate dated 02.09.2011 is available; however, the digital certificate to that effect is in process. According to him, this itself suggests that the

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minority certificate of the institution was submitted and respondent No. 3 ought to have considered the proposal and should have granted approval.

5. Learned AGP appearing for the State argued that the explanation provided in the letter dated 03.09.2025 does not support the contention of the petitioner that the document dated 02.09.2011 was, in fact, submitted to the office of respondent No. 3. It is only stated that the digital certificate is in the process of being obtained. He invited our attention to the list of documents submitted along with the proposal, and in the said list, there is no reference to the institution being a minority institution. According to him, this indicates that the document was not made available to respondent No. 3, and, therefore, the proposal which has been returned is appropriate.

6. We have perused the impugned order and the noted deficiencies therein, and at the outset, we would note that deficiency No. 1, that the petitioner should have cleared the TET examination and that a certificate to that effect ought to have been annexed to the proposal, is an issue which is sub judice before the Hon'ble Supreme Court. The said issue has been referred to a Larger Bench in *Anjuman-E-Isshat v. State of Maharashtra*, 2025 INSC 1063, and until the issue is decided, respondent No. 3 cannot insist upon TET certification from teachers

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employed in minority institutions. Secondly, on perusal of the proposal submitted by respondents No. 5 and 6 on 21.07.2025, it clarifies the situation that the document pertaining to the registration of the institution as minority institution dated 02.09.2011 has not been submitted. As has been clarified in the said communication, it is only that application for obtaining the digital certificate is in process. The deficiency noted in the impugned communication, pertaining to non-compliance with the Government Resolution dated 20.02.2025, is only in respect of submission of the digital certificate of registration of the minority institution. It is a matter of record that the original certificate dated 02.09.2011 granting minority status to respondent No. 5 has not yet been cancelled and the said document is still in force. During the pendency of the process of obtaining the digital certificate, the said document ought to be considered by respondent No. 3 while considering the proposal of the present petitioner. In our view, deficiency No. 1 does not survive.

7. In this view of the matter, we direct respondent No. 6 to resubmit the proposal of the present petitioner along with a copy of the minority certificate dated 02.09.2011 and other documents to the office of respondent No. 3 – Education Officer (Secondary), Zilla Parishad, Nanded. Upon receipt of the said proposal from respondent No. 6,

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respondent No. 3 to consider the same within a period of eight (8) weeks thereafter and not to reject the proposal on the ground of non-supply of digital certificate, but to decide the same by considering the Registration Certificate dated 02.09.2011.

8. With the aforesaid directions, the writ petition stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane