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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 14143 OF 2025

Hanuman Umrao Bokhare
VERSUS
The State Of Maharashtra And Others

.....

Mr. Shajaji B. Ghatol Patil, Advocate for Petitioner
Mr. S.B. Narwade, AGP for Respondents No.1 to 3
Mr. S.R. Yadav Lonikar, Advocate for Respondent No.4

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

DATE : 09 JANUARY, 2026

PER COURT :-

1. The present Petition is filed for following reliefs:-

- “B) By issuing appropriate writ, order or directions, the impugned order bearing Outward No. ZPP/Edu.Dept/ Pra-2/9516/2025 dated 16/10/2025 passed by respondent no.4 Education Officer (Primary), Zilla Parishad, Parbhani (Exh. N) thereby refusing to grant approval to the services of petitioner on the post of 'Shikshan Sevak' may kindly be quashed and set aside.
- C) By issuing writ of mandamus or any other writ, order or direction in the like nature of writ of mandamus, the respondents may kindly be directed to grant approval to the appointment of petitioner as "Shikshan Sevak" in respondent No. 6 Saraswati Primary School Purna run by respondent no.5 Shree Jagdamba Vidya Prasarak Mandal Purna (minority institution) considering the proposal dated 08/10/2025 (Exh. O) Submitted by respondent No.5 & 6 and further release the arrears of salary and pay the regular salary to the petitioner along with consequential benefits by taking the name of petitioner in the Shalarth Pranali and for that purpose issue necessary orders”

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2. Heard learned Advocate for the petitioner, learned AGP for the respondents No.1 to 3 and the learned Advocate appearing for respondent No.4.

3. Learned Advocate for the petitioner submits that vide appointment order dated 12.08.2024 the petitioner came to be appointed as Shikshan Sevak in respondent No.6-School, which is run by respondent No.5- Shree Jagdamba Vidya Prasarak Mandal, Anandnagar, Purna, Tq. Purna, Dist. Parbhani. Respondent No.5 is recognized as the minority institution under Article 30 of the Constitution of India and accordingly it has right to appoint the employees of its choice. The petitioner came to be appointed by respondent Nos.5 and 6 by following due procedure of law.

4. Respondents No.5 moved the proposal dated 14.07.2025 before respondent No.4 and thereby sought approval to the appointment of the petitioner as a Shikshan Sevak. Respondent No.4-Education Officer (Primary), Zilla Prishad issued letter dated 07.10.2025, thereby pointing out five deficiencies and directed to resubmit the proposal. In view of the said, respondent No.5 submitted the fresh proposal dated 08.10.2025 by removing the deficiencies seeking approval to the post of petitioner as a Shikshan Sevak. By order dated 16.10.2025, respondent No.4 rejected the said proposal on the ground that as per G.R. dated

13.02.2013 and 24.08.2018, the qualifications for the post of Shikshak Sevak/Assistant Teacher are prescribed. However, the petitioner is not possessing TET/CTET 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.

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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 AGP contends that the factual situation is stated in the impugned orders, which are in consonance with the Government Resolutions.

9. The fact, which cannot be ignored, is that respondent No.5 is a minority institution in view of the certificate issued by the State Government in its Minorities Development Department, dated 26.03.2010. Respondent No.6 school is run by respondent No.5-institution.

10. The advertisement for the post appears to have been issued and then after following the procedure, petitioner came to be appointed. In the impugned order, the only objection was in respect of TET

examination, as it was found that the petitioner 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 communications/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 order dated 16.10.2025, is hereby quashed and set aside.

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13. We direct respondent No.4 to consider the proposal forwarded by respondent No.6 in respect of appointment of petitioner, 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.4 within a period of one month from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane