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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO. 14704 OF 2025

Asfiya Parveen Mohammed Abdul Basit

VERSUS

State Of Maharashtra Through Its Secretary And Others

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Mr. Sayyed Tauseef Yaseen, Advocate for the Petitioner

Mr. Abhijit M. Phule, AGP for Respondent No.1-State

Mr. Prashant D. Suryawanshi, Advocate for Respondent No.2

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

DATE : 19 JANUARY, 2026

PER COURT :-

1. Not on board. Taken on board.
2. The present writ petition filed under Article 226 of the Constitution of India, seek directions to hold and declare that the communication dated 25th July, 2025 issued by respondent no.2 is illegal, arbitrary and unreasonable and to consequently quash and set aside the same. The petitioner further pray for grant of permanent approval to his appointment as 'Assistant Teacher' in respondent's School i.e. Miliya Girls Primary School together with all consequential benefits.
3. The case of the petitioner is that, he is working as Teacher with the school managed by Miliya Primary School, District Beed, which is a government recognized aided school and Minority Educational

Institution. Pursuant to an Advertisement dated 20th February 2020 issued for the post of 'Shikshan Sevak', the petitioner being duly qualified had applied, participated in the recruitment process and came to be selected and appointed as 'Assistant Teacher'. It is submitted that the Miliya Primary School, on several occasions had submitted proposals to the office of respondent no.2 seeking approval to the petitioner's appointment, however, none of those proposals were accepted or even responded to.

4. On 18th July 2025 a fresh proposal seeking approval to the appointment of petitioner no.1 was submitted. The said proposal came to be rejected on 25th July 2025 on the ground that name of petitioner appeared in the list of candidates allegedly involved in irregularities pertaining to the 'Teachers Eligibility Test' (in short TET) exams by disqualifying his TET credentials. According to the petitioner, reliance is placed upon the decision of this Court in Writ Petition No.623 of 2024, wherein an almost identical facts this Court has considered the law laid down by the Hon'ble Supreme Court in **Pramati Educational and Cultural Trust and others Vs. Union of India and others** (reported in 2014) 8 SCC 1, holding that minority institutions are exempted from enforcing 'TET' as a condition for appointment of teachers. This Court in the earlier writ petition also held that when no other reason is assigned to cancellation of appointment except non-possession of TET

qualifications, the impugned decision cannot stand and the Authority must reconsider the proposal on merits without applying the TET recruitment.

5. The petitioner further place reliance on the judgment of this court in **Lahori Fouziya Noorul Hasan Vs. State of Maharashtra and others (Writ petition no.6756 of 2024)**, wherein similar circumstances, the respondents were directed to grant approval and the petitioners therein were thereafter issued approval orders and their services were regularized, it is, therefore, argued that the petitioner in the present matter has a legitimate expectation that their proposals would be considered solely on the qualifications prescribed by the Management of the Minority Institution and not on extraneous grounds such as ‘TET’ qualification.

6. Learned advocate for the petitioner submits that the right of a minority institution to select and appoint qualified teachers’ of it’s choice is an essential facet of the protection guaranteed under Article 30 of the Constitution of India, while the State may prescribe minimum qualifications to ensure educational standards once, once such qualifications are satisfied and the Minority Institutions selects a teacher, the State cannot interfere while vetoing such appointments. The impugned communication dated 25th July, 2025 is, therefore,

according to the petitioner violative of Article 30, arbitrary and issued without any authority of law. It is also argued that the rejection based on the petitioner's alleged inclusion in a list of candidates involved in a 'TET' scam is wholly irrelevant as 'TET' itself is inapplicable to the Minority Institutions and the petitioner has never sought any benefit arising from TET. Thus, it is contended that the impugned orders deserves to be quashed.

7. On the other hand the learned A.G.P appearing for the State supports decision of Respondent no.2 contending that the refusal to grant approval is based on cogent and valid reasons. It is argued that the petitioner has not denied alleged involvement in the TET irregularity and, therefore, their proposals do not deserve approval. It is further submitted that although the petitioner's Management is a Minority Institution, the issue regarding applicability of the 'TET' to Minority Institutions is still pending before the Hon'ble supreme Court and, until such issue is conclusively settled, the action taken by respondent no.2 is legally justified. Hence dismissal of the petitions is sought.

8. We have heard the learned advocates for the parties at length and have perused the material placed on record including the judicial pronouncements relied upon by the petitioner. We find substance in the

submissions advanced on behalf of the petitioner. ***The Hon'ble Supreme Court, in Anjuman Ishaat-E-Taleem Trust vs. State of Maharashtra and Others***, 2025 SCC OnLine SC 1912, has held that TET qualification is not mandatory for teachers appointed in minority educational institutions. This issue is subjudiced before the Hon'ble Supreme Court as the judgment in case of ***Anjuman*** (supra) has been referred to Larger Bench. Till the issue is not decided by the Larger Bench, approval cannot be rejected only on the said ground. The reliance placed by the petitioner on the judgment of the Hon'ble Supreme Court in '***Pramati Educational and Cultural Trust and others***' is well founded and this legal position has been reportedly acknowledged by this Court in subsequent decisions. We, therefore, find no reason to take a view different from the one already taken by this Court.

9. In light of this settled legal position, the rejection of the petitioner's proposal solely on the basis of alleged TET disqualification cannot be sustained. The impugned communication dated 25th July 2025 issued by respondent no.2 must therefore be quashed. However, in so far as the prayers seeking a direction to grant permanent approval to the petitioner's appointments with all consequential benefits is concerned, we are not inclined to exercise our writ jurisdiction to issue such a mandamus. Approval of appointment is an administrative function that must first be considered by the competent authority in

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accordance with the law and applicable judicial precedents. It would therefore be appropriate to direct reconsideration of petitioner's proposal.

10. Accordingly, we **partly allow** the petition. The impugned communications dated 25.7.2025 issued by respondent no.2 rejecting the petitioner's proposals for approval of his appointments as 'Assistant Teacher' in respondent no.3 school is hereby quashed and set aside. Respondent no.3 shall re-submit afresh the proposals for approval of the petitioner's appointment to respondent no.2 within a reasonable time. Upon receipt of such proposals, respondent no.2 shall decide the same afresh, in accordance with law keeping in view the judicial pronouncements of this Court as well as the Hon'ble Supreme Court referred to herein-above and shall pass a reasoned order within a period of twelve (12) weeks from the date of receipt of proposals.

11. With the aforesaid directions, the writ petition stands **partly allowed and disposed of**. There shall be no order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE