



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.15362 OF 2025

Bhagyashri d/o Anandrao Chavan

.. Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-32.
2. The Director of Education,
Secondary and Higher Secondary,
Directorate of Education,
Central Building, Camp,
Near Sasun Hospital, Pune-411 001.
3. The Deputy Director of Education,
Latur Division, Latur.
4. The Education Officer (Secondary),
Zilla Parishad, Nanded,
District Nanded.

.. Respondents

...

Mr. T. M. Venjane, Advocate for the petitioner.
Mr. S. K. Tambe, AGP for the respondents/State.

...

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

DATE : 29 JANUARY 2026

ORDER :

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

“B] This Hon’ble Court by issuing writ of certiorari or any other writ in the like nature, may kindly quash and set aside the impugned communication dated 03.11.2025 issued by the

Education Officer (Secondary), Zilla Parishad, Nanded.

C] This Hon'ble Court by issuing writ of mandamus or any other writ in the like nature, may kindly direct the Education Officer (Secondary), Zilla Parishad, Nanded to grant approval to the appointment of the petitioner on the post of Assistant Teacher, at the earliest preferably within a period of 30 days from passing order by this Hon'ble Court.

D] This Hon'ble Court by issuing writ of mandamus or any other writ in the like nature, may kindly direct the respondent authorities to include name of the petitioner in Shalarth Pranali ID, at the earliest preferably within a period of 30 days from passing order by this Hon'ble Court."

2. Heard learned Advocate appearing for the petitioners and learned AGP appearing for respondent Nos.1 to 4/State.

3. Learned Advocate for the petitioner submits that the petitioner has completed her qualification of Bachelor of Science, Master of Science and Bachelor of Education. He submits that there is vacancy of Assistant Teacher in Panchsheel Vidyarjan Secondary and Higher Secondary School, Hadgaon, Taluka Hadgaon, District Nanded run by Adarsh Vidyarjan Mandal, Hadgaon, which is a minority institution. The petitioner came to be appointed as Assistant Teacher in the said school by following due procedure of law on 10.07.2024. The petitioner joined the said school on 11.07.2024. The appointment of the petitioner is as per

roaster and as per group sanction granted by the Education Officer (Secondary). It is further submitted that on 29.07.2024 the Headmaster of Panchsheel Vidyarjan Secondary and Higher Secondary School, Hadgaon, District Nanded submitted the proposal for approval of the appointment of petitioner to the Education Officer (Secondary), Zilla Parishad, Nanded along with all the relevant documents along with minority certificate, however, on 03.11.2025, without hearing the petitioner, the respondent No.4/Education Officer (Secondary), Zilla Parishad, Nanded, rejected the proposal for approval of the appointment of the petitioner on the ground that the petitioner has not passed TET examination. Hence, this petition.

4. 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.

5. 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.

6. 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.

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

8. The fact, which cannot be ignored, is that school is run by a minority society in view of the certificate issued by the State Government in its Minorities Development Department, dated 24.09.2019.

9. Petitioner came to be appointed as Assistant Teacher after following the procedure. 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.”

10. 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 order cannot be said to be a justifiable ground for rejection.

11. In view of the above circumstances, the Writ Petition stands **partly allowed**. The impugned order dated 03.11.2025 is hereby quashed and set aside.

12. We direct respondent No.4 to consider the proposal forwarded by the school in respect of approval to the appointment of petitioner, without insisting on TET qualification, in view of *Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others, (supra)*.

13. 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

scm