



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.612 OF 2026

Pathan Mohammad Khan Chand Khan,
Age.33 Years, Occ. Service,
r/o. Samitra Colony, Near Chatrapati School,
Majalgaon, Tq. Majalgaon,
Dist. Beed

..Petitioner

Vs.

1. The State of Maharashtra,
Through Its Secretary,
School Education & Sports Department,
Mantralaya, Mumbai - 32
2. The Commissioner of Education,
Maharashtra State, Pune
3. The Director of Education,
Directorate of Primary Education,
Maharashtra State, Dr. Anibezant Road,
Central Building, Pune
4. The Deputy Director of Education,
Aurangabad Division, Aurangabad,
Misa Compound, Bhadkal Gate,
Narali Baugh, Aurangabad
5. The Chief Executive Officer,
Zilla Parishad, Beed
6. The Education Officer [P],
Zilla Parishad, Beed
7. The Superintendent,
Pay and Provident Fund Unit [P],
Zilla Parishad, Beed

8. The Head Master,
Bukhari Urdu Primary School,
Majalgaon, Tq. Majalgaon,
Dist. Beed.

..Respondents

Mr.S.A. Nagarsoge, Advocate for petitioner
Mr.S.B.Pulkundwar, AGP for respondent nos.1 to 4 - State
Mr.P.D.Suryawanshi, Advocate for respondent nos.6 and 7

**CORAM : SMT.VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.
DATE : APRIL 21, 2026**

ORAL JUDGMENT (PER AJIT B. KADETHANKAR, J.):-

Rule. Rule made returnable forthwith. Heard the parties for final disposal considering the nature of prayers in the Petition.

2. Subject-matter:

Respondent no. 6 - the Education Officer of the Zilla Parishad, Beed has refused to accord an approval to Petitioner's appointment as Assistant Teacher. The refusal is on the pretext that Petitioner's name is involved in a crime concerning malpractice occurred in the Teachers' Eligibility Test ("T.E.T." for the sake of brevity) for the year 2019. As such, the Petitioner challenges the order dated 03-07-2025 passed by the Respondent no.6. The Petitioner also seeks consequential directions to the Education

Officer to grant approval to Petitioner's appointment as an Assistant Teacher.

3. Brief facts: -

(a) This is third round of litigation by the Petitioner before this Court. In every round of litigation, Petitioner's involvement in the crime registered by the State Authority in respect of malpractice at T.E.T. examination 2019 , has been the core issue.

(b) The petitioner holds qualification of Higher Secondary Certificate with Diploma in Education [HSC, D.Ed.], and is eligible to be appointed as Shikshan Sevak.

(c) The respondent no. 8 is a Minority Institution, where the Petitioner was appointed as Shikshan-Sevak vide appointment order dated 01-08-2018.

(d) Consequent to Petitioner's appointment, the School Management submitted a proposal to the Respondent no.6- the Education Officer (Primary), Zilla Parishad Beed for seeking approval to Petitioner's appointment as Shikshan-Sevak.

(e) The petitioner's appointment was found to be as per due procedure and in accordance with law. Hence, on 25-11-2019 the Education Officer pleased to sanction the proposal and granted approval to Petitioner's appointment as Shikshan-Sevak.

(f) The State of Maharashtra made passing of T.E.T. Examination compulsory for the teachers serving in private primary schools in the State. Hence the Petitioner appeared for the T.E.T. examination 2019 conducted the State authorities. Maharashtra State Council of Examination ["MSCE" for brevity], is the State authority who conducts the T.E.T. Examinations.

(g) Some malpractice was reported to have occurred in the T.E.T. examination 2019-2020 involving a software company, namely G.A. Software company who processed the T.E.T. examination 2019. Crime No.56 of 2021 came to be registered at Cyber Police Station, Pune city at the behest of the Chairman of MSCE, for offences punishable u/s 406, 409, 420, 465, 467, 468 r/w 34 of the Indian Penal Code r/w Section 66 (D) of Information Technology Act and Section 7 and 8 of the Maharashtra Prevention of Mal-Practices at Universities, Board and other Specified Examination Act 1982.

(h) In the light of the registration of crime, the MSCE cancelled the performance of the candidates who had passed the T.E.T. 2019 and whose names were involved in the crime. Petitioner was also one amongst those candidates. Vide order dated 03-08-2022 the Chairman/Commissioner of MSCE passed the said adverse order.

(i) A Writ Petition no. 12139 of 2022 and Writ Petition No. 12206 of 2022 were filed by some of the candidates including the petitioner, whose performance was cancelled by the MSCE owing to the registration of crime. This Court, vide order dated 05-12-2022 in the said Writ Petition No.12139 of 2022 with connected cases, protected the services of those petitioners.

(j) The Education Officer issued notice on 27-06-2023 calling upon the Petitioner and other similarly situated candidates to show cause as to why they should not be dismissed on account of the registration of crime in T.E.T. examination scam.

(k) The petitioner filed Writ Petition no. 9754 of 2023 in this Court challenging the notice dated 27-06-2023. This Court, upon hearing the parties partly allowed the Writ Petition. It was observed that the impugned notice was inconsequential since the prosecution

was underway. The Petitioner and the petitioners in connected cases were protected in the light of the order passed in the Writ Petition no. 12139 of 2022 and Writ Petition No.12206 of 2022.

(l) In the meantime, the petitioner was not paid his remuneration as Shikshan-Sevak. Hence he persuaded the Education Officer for release of his remuneration. It was answered that since Petitioner's name was not included in the Shalarth system, his remuneration could not be released. Pendency of the crime was the reason for non-inclusion of the petitioner's name in Shalarth system.

(m) The Petitioner therefore filed Writ Petition no. 509 of 2024 seeking appropriate directions to the Education Officer. Upon hearing the parties, this Court vide order dated 17-01-2024 disposed of the Writ Petition thereby directing the Education Officer to clear the outstanding due to the Petitioner.

(n) By this time, the Petitioner completed three years as Shikshan-Sevak. The school management accordingly appointed him as Assistant Teacher; and submitted a proposal on 02-07-2025 to the Education Officer seeking approval to Petitioner's appointment as Assistant Teacher.

(o) Vide order dated 03-07-2025, the Education Officer refused to grant the approval assigning reason that since petitioner's

name is involved in the T.E.T. examination scam 2019, the approval could not be granted. The order dated 03-07-2025 is impugned in the present Writ Petition.

(P) The school management on 17-07-2025 filed one representation to the Education Officer to re-think on the proposal and to grant the same. However, no response is received on the said representation.

4. Submissions:

a) Mr. Nagarsoge, learned advocate for the Petitioner submit that,

- (i) The Education Officer has already granted approval to Petitioner's appointment as Shikshan-Sevak, and the said approval is intact.
- (ii) While action was sought to be taken by the Education Officer against the Petitioner on account of his involvement in the T.E.T. scam, this Court has protected Petitioner's services observing that the prosecution is not concluded.

- (iii) Subsequently when the Education Officer has stalled Petitioner's remuneration on the same count i.e. pendency of criminal prosecution in T.E.T. scam, this Court has directed the release the remuneration.
- (iv) That, in such circumstances non grant of approval by the Education Officer to Petitioner's services as Assistant Teacher is nothing but overlooking the true spirit in the orders passed by this Court in Writ Petition Nos. 9754 of 2023 and 509 of 2024.
- (v) Mere pendency of the T.E.T. scam crime, must not come in Petitioner's way for grant of approval as Assistant Teacher.

Mr. Nagarsoge, learned advocate relies upon another order dated 27-11-2025 passed by this Court in Writ Petition No.14162 of 2025. He submits that in the similar situation this Court has directed the Education Officer therein to pass appropriate order in the light of the cited cases. With this, learned advocate for the Petitioner prays to direct the Education Officer to grant approval to Petitioner's services as Assistant Teacher.

b) Learned Assistant Government Pleader Mr. Pulkundwar and Mr.P.D.Suryawanshi, Learned Counsel for the Respondent nos. 6 and 7 would however submit that involvement of the Petitioner in the T.E.T. examination scam 2019 is on record. That, the crime is a serious one and it would be appropriate if the approval is not granted during the pendency of the prosecution.

c) They submit that no prejudice shall cause to the Petitioner if the approval is stalled until the Petitioner gets rid of the prosecution. They submit that if at all the Petitioner is acquitted in the said crime, the Petitioner could get the consequential benefits.

d) It is submitted by the respondent side that the approval granted then by the Education Officer to the Petitioner as Shikshan-Sevak, was a matter while the prosecution was not lodged. Mr. Suryawanshi and Mr. Pulkundwar therefore submit that considering the gravity of the charges levelled against the Petitioner, directions as prayed for may not be passed.

(5) Consideration:

a) We have heard the parties at length. We have also gone through the orders passed by this Court in various matters pertaining to the employees in private schools involved in the T.E.T. examination scam of 2019.

(b) Petitioner's qualification and the process of his appointment is not in dispute. Considering the requirement for appointment as Shikshan-Sevak and compliance to that, the Education Officer granted approval to Petitioner's appointment as Shikshan-Sevak.

(c) On the basis of Petitioner's alleged involvement in the T.E.T. scam 2019, Petitioner's services were sought to be ended. This Court caused interference and protected services of the Petitioner and other similarly situated candidates. It is observed that mere pendency of the prosecution doesn't conclude that the Petitioner was guilty of the charged offenses.

(d) Subsequently, when Petitioner's remuneration was stalled on account of non grant of Shalarth Identity owing to the registration of the crime, this Court re-iterated that pendency of the prosecution can not be used as a punitive action. This Court directed to release Petitioners' remuneration.

(e) The sum and substance of the orders passed by this Court is that mere pendency of the criminal prosecution shall neither

adversely affect the services of the Petitioner nor he could be deprived of his usual pay. This Court while passing order in the **Writ Petition no.12139 of 2022 dated 05.12.2022 (Anil Gangadhar Salunke and anr. vs. The State of Maharashtra, through its Secretary and ors., with connected matters)** ordered that the Petitioners therein are not entitled for increments without leave of the Court.

(f) While dealing with similarly situated employees of the private schools, this Court in its **order dated 27.11.2025 passed in Writ Petition No.14162 of 2025 (Ansari Zunnoorain Khaja Noorul Saqlain Ansari vs. State of Maharashtra, Through its Secretary and others** with connected matter observed as below:

"7. 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 petitioners. We find substance in the submissions advanced on behalf of the petitioners. 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 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 petitioners 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.

8. *In light of this settled legal position, the rejection of the petitioners' 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 petitioners' 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 accordance with the law and applicable judicial precedents. It would therefore be appropriate to direct reconsideration of petitioners' proposal.*

9. *Accordingly, we partly allow the petitions. The impugned communications dated 25.7.2025 issued by respondent no.2 rejecting the petitioners' proposals for approval of their appointments as 'Assistant Teachers' in respondent no.3 school is hereby quashed and set aside. Respondent no.3 shall re-submit afresh the proposals for approval of the petitioners' appointments to the 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 12 (Twelve) weeks from the date of receipt of proposals."*

(g) We find that present petitioner's case is fully covered by the order passed in the Writ Petition No. 14162 of 2025 (supra). Mere pendency of the crime concerning T.E.T. examination scam must not stand a reason to reject the proposal for approval as an Assistant Teacher. The prosecution has to prove the case against the accused. Until the prosecution proves the offences against the accused, they can not be termed as guilty of the offences nor could be subjected to any adverse action merely because the crime is registered. Petitioner's case is that otherwise the case is fit for approval as an Assistant Teacher. With this logic, the earlier orders are passed by this Court protecting Petitioner's services and release of remuneration. Hence the impugned order dated 03-07-2025 must go.

(h) So far as the consequential prayer in the petition seeking directions to the Education Officer to grant approval as an Assistant Teacher to the Petitioner is concerned, the Education Officer shall examine the proposal on its own merit and then shall pass appropriate order. However, such proposal must not be rejected merely due to pendency of the crime against the Petitioner in respect of T.E.T. examination scam 2019.

(i) We are cautious about the issue raised and apprehension expressed by the respondent side about seriousness of the crime registered in respect of the T.E.T. examination 2019, and involvement of the Petitioner therein. Hence in our considered opinion, there has to be some rider on the Petitioner in the event of his being found guilty of the offences. Therefore we are of the view that the Petitioner should submit an undertaking to the effect if he is found guilty of the offences charged in Crime no.56 of 2021 registered at Cyber Police Station, Pune City, the Petitioner shall remit back all the monitory benefits to the Education Officer immediately without reserving any right or equity.

(6) Hence, we pass following order.

ORDER

- I. The Writ Petition is partly allowed.
- II. Impugned order dated 03-07-2025 (Exh.K: page 50) is quashed and set aside.
- III. Within a period of 04 weeks here from, the Respondent no.8 shall re-submit proposal to the Respondent no.6 for approval to Petitioner's appointment as an Assistant Teacher. The proposal shall be annexed with Petitioner's undertaking on oath that, 'if he is found guilty of the offences charged in Crime

no.56 of 2021 registered at Cyber Police Station, Pune City, the Petitioner shall remit back all the monitory benefits to the Education Officer immediately without reserving any right'.

- IV. Within a period of 06 weeks upon receipt of such proposal, the Respondent no.6 shall consider the same on its own merit in the light of above observations, and shall pass appropriate order.
- V. If any other deficiency is noticed, an opportunity of hearing be given to the Petitioner and Respondent no.8, to remove such deficiency.
- VI. Rule made absolute in above terms. Writ Petition stands disposed of.

[AJIT B. KADETHANKAR, J.]

[SMT.VIBHA KANKANWADI, J.]

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KBP