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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

978 WRIT PETITION NO. 3285 OF 2026

Shaikh Mahek Lalmohamad

VERSUS

The State Of Maharashtra And Others

.....

Mr. V.S. Panpatte, Advocate for Petitioner

Mr. S.B. Pulkundwar, AGP for Respondents No.1 and 2

Mr. S.B. Ghute, Advocate for Respondent No.3

.....

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

DATE : 27 MARCH, 2026

PER COURT :-

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

- “B. By a writ of certiorari or any other appropriate writ or direction in the like nature, the impugned order dated 30.10.2025 issued by the respondent no.3 -Education Officer (Primary), Zilla Parishad, Latur at (Exhibit ‘E’) may kindly be quashed and set aside;
- C. By a writ of Mandamus or any other appropriate writ or direction in the like nature, the Respondent No.3-Education Officer (Primary), Zilla Parishad, Latur may kindly be directed to grant approval to the appointment of petitioner as Assistant Teacher w.e.f. 12.09.2025 and further the Respondent No.2-Deputy Director of Education may kindly be directed to sanction Shalarth I.D. and to release the salary of the petitioner as per grants available to the post held by her within a period of four weeks;
- D. It may kindly be held and declared that the passing of T.E.T. examination is not compulsory to the petitioner while in service with the respondent no.6-School run by the minority institution and consequently the action taken by respondent no.2 refusing to grant of approval to the appointment of petitioner”

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

3. Learned Advocate for the petitioner submits that vide appointment order dated 12.09.2025 the petitioner came to be appointed as Assistant Teacher in respondent No.6-School, which is run by respondent No.5- Progressive Education Institute, Latur, Tq. & Dist. Latur. 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 proposals dated 22.09.2025 before respondent No.3 and thereby sought approval to the appointment of the petitioner as a Assistant Teacher. Respondent No.3- Education Officer (Primary), Zilla Prishad, Latur issued letter dated 30.10.2025, rejected the the said proposal on the ground that as per G.R. dated 13.02.2013, 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.

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 30.11.2009. 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 30.10.2025, is hereby quashed and set aside.

13. We direct respondent No. 3 to consider the proposal forwarded by respondent No. 5 in respect of grant of approval to the appointment of the petitioner, without insisting on TET qualification, in view of **Anjuman Ishaat-E-Taleem Trust vs. the State of Maharashtra and Others** (supra).

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14. Such decision to be taken by respondent No.3 within a period of one month from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane