



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO.4353 OF 2026

YOGESHWARI BALAJIRAO SANGEKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. V.S. Panpatte, Advocate for petitioner

Mr. S.B. Narwade, AGP for respondent Nos.1 to 3

...

CORAM : SMT. VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.

DATE : 22nd APRIL, 2026

ORDER :

. Present petition has been filed for following reliefs :

“(B) By issue of writ or certiorari or order or direction in the like nature, the impugned order dated 07.08.2025 passed by respondent No.3 – Education Officer (Secondary), Zilla Parishad, Nanded may kindly be quashed and set aside;

(C) By issue of writ of mandamus or order or direction in the like nature, respondent No.3 - Education Officer (Secondary), Zilla Parishad, Nanded may kindly be directed to grant approval as Shikshan Sevak w.e.f. 01.07.2024 to 30.06.2027 working with

respondent No.5 – School and to release arrears of salary from 01.07.2024 till today by including her name in Shalarth though respondent No.2 – Deputy Director of Education within a period of four weeks.”

2 Heard learned Advocate appearing for petitioner and learned AGP appearing for respondent Nos.1 to 3.

3 Learned Advocate for petitioner submits that petitioner is working as Assistant Teacher with respondent No.5 school. He submits that respondent No.4 is the registered educational institution. Respondent No.5 School is run by respondent No.4 institution, which is a school of standard 5th to 12th classes. During the course of their educational activities, respondent No.4 institution received status of minority institution by order dated 05.04.2024. Respondent No.5 school received recognition to run the same by order dated 11.10.1984 on unaided basis. During the course of their education school started receiving grant-in-aid from State and school came on 100% in aid from the academic year 1996-1997. Due to increasing the strength of students by way of natural growth additional divisions came to be received to school from education department by orders dated 30.10.2012 and 03.04.2014. As such respondent No.5 – school received additional division of 8th and 9th standard. Accordingly, staff approval came to be granted and in all 12 posts are sanctioned by the Education Officer. Out of

12 posts, 09 posts are aided category and 03 posts are sanctioned against non aided category. It is submitted that an employee Mr. Hemant Jadhav came to be retired on 31.05.2024 and in his place a senior most employee Mr. Ravi Chabharekar came to be transferred. Due to transfer of Mr. Ravi Chabharkar a post of Assistant Teacher remained vacant. Thereafter, after due procedure of recruitment, petitioner came to be selected as Assistant Teacher w.e.f. 01.07.2024. After her appointment, school submitted her proposal to grant approval as Shikshan Sevak for approval, but Education Officer rejected the proposal because petitioner does not possess the qualification of TET. The Education officer has not considered the institution is a minority institution though said certificate was annexed along with proposal of petitioner.

4 Learned Advocate for 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 Learned Advocate for 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 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 respondent No.5 school is run by a minority society in view of the certificate issued by the State Government in its Minorities Development Department, dated 05.04.2024.

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 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 orders dated 07.08.2025 is hereby quashed and set aside.

12 We direct respondent No.2 to consider the proposal forwarded by respondent No.5 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.2 within a period of one month from today.

(AJIT B. KADETHANKAR, J.)

(SMT. VIBHA KANKANWADI, J.)