



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

District : Jalna

WRIT PETITION NO.2785 OF 2026

1. Javid Khan Salimuddin Khan
Age: 37 Years, Occu: Service,
R/o. Z.PPS. Nandi Urdu,
Tq. Ambad, Dist. Jalna.
2. Devendra Nivrutti Bargaje
Age:- 43 years, Occu: Service,
R/o. Z.PPS Deopimpalgaon,
Tq Badnapur, Dist.Jalna.
3. Mohammad Muzaffar Abdul Khaleque
Age:-40 Years, Occu: Service,
R/o. Z.P High School, Bhokardan,
Tq. Bhokardan Dist. Jalna.
4. Mohammed Riyazuddin Mohammed Sultanuddin
Age: 38 Years, Occu: Service,
R/o. Z P Vurdu High School,
Paradgaon, Tq. Ghanswangi, Dist. Jalna.
5. Kharat Pandharinath Dhondiba
Age: 52 years, Occu: Service,
R/o. Z. P C. P S Selgaon,
Tq. Badnapur, Dist. Jalna.
6. Smt. Mohsin Akhtar Maula Ahmad Shaikh
Age: 46 Years, Occu: Service,
R/o. ZPPS No. 1 Urdu, Bhokardan,
Tq Bhokardan, Dist. Jalna.
7. Md. Sadique Md Haroon Panjwani
Age:- 40 Years, Occu: Service,
R/o. Z.P URDU. P S. Satona Khu,
Tq. Partur Dist. Jalna,
8. Smt Shaikh Shabana Begum Shaikh Naseer
Age:- 40 Years, Occu: Service,
R/o. Z.PPS. Urdu Danapur,
Tq.Bhokardan, Dist. Jalna.

9. Shaikh Habib Abdul
Age 56 years, Occu: Service,
R/o At. Teacher Deogaon, CPS Georaibazar
Ta. Badnapur, Dist. Jalna.
10. Smt Rubina Parveen Mohammad Sultanuddin
Age: 40 years, Occu: Service,
R/o. ZPPSS Nutan Urdu Kanya, Ashti,
Tq. Partur, Dist. Jalna.
11. Riyaz Khan Rahman Khan
Age: 38 Years, Occu: Service,
R/o Z.PPS. Majrewadi Urdu,
Tq. Jalna, Dist. Jalna.
12. Abdul Mateen Abdul Hafeez Qureshi
Age:- 45 Years, Occu: Service,
R/o. Z.PPS Nandi Urdu,
Tq. Ambad, Dist. Jalna.
13. Shaikh Shakil Salim
Age:- 39 Years, Occu: Service,
R/o. ZPPS Anwa Urdu,
Tq.Bhokardan, Dist. Jalna.
14. Ilyas Mohiuddin Maqdoom Mohiuddin
Age. 52 Years, Occu: Service,
R/o. ZPPS Urdu Ner,
Tq & Dist. Jalna.
15. Mohammed Aawez Imran
Age:- 39 Years, Occu: Service,
R/o Z.PPS. Dargah Sharif Urdu,
Tq. Ghansawangi, Dist. Jalna.
16. Qureshi Rasheed Khan Yasin Khan
Age:- 44 Years, Occu: Service,
Z.PPS. Urdu School, Godri,
Tq. Bhokardan, Dist. Jalna.
17. Mohammed Iqbal Mohammed Jafar
Age:-40 Years, Occu: Service,
R/o Z.PPS. Naveen Gharkul Urdu Partur,
Tq. Partur, Dist. Jalna

18. Sayed Nafees Sameena Ahemad.
Age. 40 Years, Occu: Service,
R/o Z.P. High School, Bhokardan,
Tq. Bhokardan, District. Jalna.
19. Durdana Begum Mohommad Samiuddin
Age: 37 Years, Occu: Service,
R/o. Z.P.H.S.Jamkhed Urdu,
Tq. Ambad, Dist Jalna.
20. Seema Vishwanath Kakde
Age-45 years, Occu. Service,
R/o. ZPPS Banegaon,
Tq. Bhokardan, Dist. Jalna.
21. Mohammed Irfan Abdul Naim
Age: 38 Years, Occu. Service,
R/o. Z.P Urdu High School, Parradgaon,
Tq. Ghansawangi, Dist. Jalna.
22. Subhash Nivrutti Bhadange
Age: 42 years, Occu. Service,
R/o. Z.P.C.P.S.Dabhadi,
Tq.Badnapur, Dist. Jalna.
23. Vikas Babulal Pothare
Age: 45 years, Occu. Service,
R/o. Z.P.P.S.Mhasala,
Tq. Badnapur, Dist. Jalna.
24. Somwanshi Nilesch Panditrao
Age: 44 years, Occu. Service,
R/o. Z.P.C.P.S.Dabhadi,
Tq. Badnapur, Dist Jalna
25. Sudhakar Vithalrao Raut,
Age: 50, Occ: Service,
R/O. Z.P. P.S. Mangu,
Tq. Ghansawangi, Dist. Jalna

.....PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary
School Education & Sports Department,
Mantralaya, Mumbai.
2. The State of Maharashtra
Through its Secretary
Rural and Water Conservation Department,
Mantralaya, Mumbai.
3. The Secretary,
CTET, PS 1-2, Institutional Area, IP. Extension,
Patparganj, Delhi-110092.
4. The Director of Education (Primary)
Maharashtra State, Pune.
5. The Chief Executive Officer,
Zilla Parishad, Jalna,
Tq & Dist. Jalna.
6. The Education Officer (Primary),
Zilla Parishad, Jalna,
Tq & Dist. Jalna

.....RESPONDENTS

**WITH
CIVIL APPLICATION NO.4182 OF 2026
WITH
CIVIL APPLICATION NO.4178 OF 2026**

Mr. Sambhaji G. Munde, Advocate for petitioners
Mr. A. M. Phule, AGP for respondents-State
Mr. Prashant D. Suryawanshi, Advocate for respondent nos.5 and 6
Mr. Ketan Pote h/f Mr. Arvind G. Ambetkar, Advocate for applicant in
CA No.4178/2026

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

DATED : 29TH APRIL, 2026

JUDGMENT :- (Per Ajit B. Kadethankar J.)

Rule. Heard parties for final disposal of the Writ Petition. Rule made returnable forthwith. Considering the nature of controversy, we heard the parties for final disposal at their request.

1. Preface:

Matter pertains to the claim of Assistant Teachers for promotion and the mandate to clear TET/CTET examination. Its no more *res- integra* that only those Assistant Teachers who have cleared TET/CTET are qualified for being considered for promotion to the promotional posts. Present are the petitioners who were not holding TET/CTET qualification on 01.09.2025 nor on 18.02.2026 while a promotion process was initiated. Before the promotion list could be published, Petitioners approached this Court vide present petition. This Court vide interim order directed the Zilla Parishad authorities not to conclude the process. During the pendency of the Petition, some of the Petitioners cleared the TET/CTET. Petitioners now pray that such Petitioners be considered for the promotion. Petitioners contend that the final promotion list is withheld under the interim orders of this Court which created right in favor of the successful Petitioners who could be incorporated in the final promotion orders.

Considering the facts and Petitioners' prayers, we frame following issues for consideration:

- (i) “Whether if candidates having not qualified TET/CTET can reserve a right for promotion on the count that they have undergone the examination during the promotion process.”

AND

- (ii) “Whether if qualification of TET/CTET could be retrospectively made applicable for promotion.”

2. Facts in brief:

2.1 Petitioners are those Assistant Teachers who have not cleared TET/CTET on 01.09.2025, but had undergone CTET examination conducted in February 2026 while promotion process to fill up vacancies on the posts of Head Masters, Cluster Heads, Graduate Teachers and Extension Officer was initiated on 18.02.2026.

2.2 Petitioners’ predominant prayer is that since they had already appeared for the CTET in the very month in which the promotion process was initiated, they be included in the same subject to their performance in the CTET examination.

2.3 This petition was pressed for urgent admission by Mr. Sambhaji G. Munde, learned advocate for Petitioners on 13.03.2026. It was contended that the answer key to the question sets in the CTET-February 2026 was released just a day before i.e. on 12.03.2026, and that the Petitioners were hopeful to find themselves successful. Initially this court issued limited interim directions to the Zilla Parishad authorities to hold on finalization of the Promotion list till

next date. The matter was then posted to 10.04.2026, and then it was heard today. The interim order dated 13.03.2026 reads thus:

- “1. Issue notice to the Respondents. Learned AGP waives service of notice on behalf of Respondent Nos. 1, 2 and 4. Learned Advocate Mr. Suryawanshi waives service of notice on behalf of Respondent Nos. 5 and 6. No necessity to issue notice to Respondent No. 3.*
- 2. Learned Advocate for Respondent Nos. 5 and 6 submits that Respondent No. 5 has only called information as to who has cleared TET or CTET examination. Yet, promotional list is not declared.*
- 3. Learned Advocate for the Petitioners submits that the Petitioners have appeared for CTET examination February 2026 and yesterday only, the answer key has been published. It is likely that the result would be declared in the near future.*
- 4. In view of the fact that promotional list is not prepared, we direct Respondent Nos. 5 and 6 not to finalise the list till the next date.*
- 5. Respondents to file affidavit-in-reply within two weeks. Copy of the same be given to the other side in advance.*
- 6. Place the matter for further consideration on 10.04.2026.”*

2.4 In the meantime, the Petitioners filed Civil Application No.4182 of 2026 contending that the CTET- February 2026 result is declared, and that those successful candidates amongst the

Petitioners be included in the subject-matter Promotion list corresponding to their seniority and concerned post.

2.5 On the other hand, a Civil Application No.4178 of 2026 came to be filed by Applicants therein seeking intervention. The Applicants contend that no vested right accrued in favor of the Writ Petitioners to get themselves included in the ongoing promotion process merely because they had undergone the latest TET/CTET examination. The Applicants contend that in any case only those candidates who possessed TET/CTET qualification on 01.09.2025 or at least before initiation of the promotion process would be entitled for being considered in the ongoing promotion processes. They further submit that the promotion process is unwarrantedly sought to be stalled by the Writ Petitioners.

2.6 We have heard the Writ Petition together with the Civil Applications in the light of the controversy placed before us. For adjudication, we find that the matter consists of the two issues for consideration as recorded supra.

3. Submissions

3.1 Mr. Sambhaji G. Munde, learned advocate for the Petitioners submit that its not the case that while delivering judgment in *Anjuman-Ishaat-E-Taleem* reported at **2025 INSC 1063**, the

Honorable Supreme Court has fixed the date 01.09.2025 as a last date for TET/CTET clearance. He would submit that law requires that a person would become eligible for appointment/continuation of appointment/promotion, once he/she acquires TET/CTET qualification. Mr. Munde further submits that it's a matter of fact that, while the subject-matter promotion process was initiated on 18.02.2026, the CTET examination has already taken place on 7th and 8th of February 2026. He submits that the result was awaited, and hence the petitioners rightfully approached this Court. He submits that it is propitious for the Petitioner that, this Court vide interim directions has withheld declaration of the final list of promotion.

3.2 Petitioners submit that if the successful petitioners who cleared CTET-February 2026 are not included in the promotion list, their career would be hampered. Mr. Munde's earnest argument is that the peculiar facts of the case clearly show that right to be considered in the promotion process is accrued in their favor since they had appeared for the CTET-February 2026 even before the promotion process was undertaken by the Zilla Parishad authorities. He would submit that promotion is the right of the petitioners who stood successful in the CTET-February 2026. Mr. Munde's last argument is that since he could demonstrate the merit on the very first day of

hearing, this Court has granted interim relief. Consequently, his submission is that now the Zilla Parishad authorities be directed to include the names of successful petitioners who cleared CTET-February 2026.

3.3 In response, Mr. P. D. Suryawanshi, learned advocate for the Respondents/Zilla Parishad authorities strongly opposes the arguments advanced by the Petitioners. He submits that merely because the Petitioners had appeared for the CTET-February 2026, the promotion process even started after the examination can not be made subject to the result of the said examination. He further objects that the petitioners who stood successful in the CTET-February 2026 won't stand at par with those who were qualified for the promotion process on the date of its initiation.

3.4 Mr. Suryawanshi's final submission is that in any case the law laid down by the Honorable Supreme Court in the case of *Anjuman* (supra) prevails over every process and every candidate aspiring for appointment/promotion, as the case may be. He submits that in view of the mandate laid down by the Honorable Supreme Court (supra), unless a person holds qualification of TET/CTET, he/she is not entitle for promotion.

3.5 Mr. Suryawanshi's earnest argument is that subsequent acquisition of qualification can not be retrospectively made applicable to a promotion process. He submits that the position prevailing in respect of each candidate as on the date of initiation of process has been taken into consideration. That, the Petitioners can not be permitted to cure the deficiency in derogation to the law laid down by the Honorable Supreme Court in ***Anjuman case*** (supra).

3.6 Learned Assistant Government Pleader Mr. A. M. Phule assists the court echoing the arguments of Mr. Suryawanshi. He submits that Judgment of the Honorable Supreme Court in '***Anjuman case***' (supra) prevails over the issue. He submits that no procedure/process nor any eventuality could take exception to the mandate laid down by the Honorable Supreme Court. He too re-iterates that merely because this Court has directed to hold on the promotion process for a limited period, no right is accrued in favor of the Petitioners only on the count that their result was awaited for CTET-February 2026.

3.7 Although Mr. Arvind G. Ambetkar sought to intervene in the matter on behalf of such Teachers who are in the zone of promotion as per the subject-matter promotion process, we are of the *prima facie* opinion that at this juncture no right is accrued in favor of such candidates for which their intervention is pressingly warranted in the matter.

4. Consideration:

4.1 We have given cautious consideration to the arguments advanced by the Parties. With the able assistance of the respective advocates and learned Assistant Government Pleader, we have gone through the various orders passed by this Court in the cases of TET/CTET, as also the judgment rendered by the Honorable Supreme Court in the case of *Anjuman* (supra).

4.2 The issue in question necessarily refers to the provisions of the Right of Children to Free and Compulsory Education Act or Right to Education Act 2009 (“RTE Act” for brevity). Let us now re-visit the object of the Act to test Petitioners’ case in the light of the observations recorded by the Honorable Supreme Court in *Anjuman case* (supra).

4.3 With principal object to ensure free and compulsory education to the children of age group between 06 to 14, the Parliament enacted the RTE Act. In order to achieve the object, the Parliament also felt it necessary to make provisions for encouraging the educational institutions to impart free education to the children of the given class, by ensuring reimbursement of the fees and expenses. The Parliament on the other hand also thought it necessary to lay down mandates for modalities to ensure quality education thereby

putting some certain conditions on the qualification and merit of the teaching staff.

4.4 It would be advantageous to look into the Section 23 of the RTE Act which reads as follows:

23. Qualifications for appointment and terms and conditions of service of Teachers. -

(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a Teacher.

(2) Where a State does not have adequate institutions offering courses or training in Teacher education, or Teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a Teacher, for such period, not exceeding five years, as may be specified in that notification: Provided that a Teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years. [Provided further that every Teacher appointed or in position as on the 31st March, 2015,

who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.]

(3) The salary and allowances payable to, and the terms and conditions of service of, Teachers shall be such as may be prescribed.

4.5 Section 23 of the RTE Act mandated qualification corresponding to sub section (1) of the Section.

4.6 Pursuant to the Section 23(1) of the RTE Act, the National Council for Teacher Education which the apex body in the country for framing uniform modalities in school teaching, issued a notification 23.08.2010 thereby mandating that the essential qualification i.e. Teacher Eligibility Test (“TET” for the sake of brevity), must be possessed by a candidate seeking appointment of a Teacher in any school as referred in the Section 2 (n) of the RTE Act.

4.7 For the sake of convenience, the notification dated 23.08.2010 issued by the National Council for Teacher Education is reproduced as follows.

1 Minimum Qualifications.-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2 - year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2 - year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B. El. Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2 year Diploma in Education (Special Education).

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) **Classes VI-VIII**

(a) *B.A/B.Sc and 2 - year Diploma in Elementary Education (by whatever name known)*

OR

B.A/B.Sc. with at least 50% marks and 1 - year Bachelor in Education (B. Ed)

OR

B.A/B.Sc. with at least 45% marks and 1 year Bachelor in Education (B. Ed), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B. El. Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year BA/B.Sc. Ed or B.A. Ed./BSc. Ed.

OR

B.A./B.Sc. with at least 50% marks and 1-year B.Ed (Special Education)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose

2 Diploma/Degree Course in Teacher Education.-

For the purposes of this Notification, a diploma/degree course in Teacher education recognized by the National Council for Teacher Education (NCTE) only shall be considered. However, in case of Diploma in Education (Special Education) and B. Ed (Special Education), a course recognized by the Rehabilitation Council of India (RCI) only shall be considered.

3 Training to be undergone.- A person -

(a) with BA/B.Sc. with at least 50% marks and B. Ed qualification shall also be eligible for appointment for class I to V upto 1st January, 2012, provided he undergoes, after appointment, an NCTE recognized 6-month special programme in Elementary Education.

(b) with D. Ed (Special Education) or B. Ed (Special Education) qualification shall undergo, after appointment, an NCTE recognized 6-month special programme in Elementary Education

4 Teacher appointed before the date of this Notification.- *The following categories of Teachers appointed for classes I to VIII prior to date of this Notification need not acquire the minimum qualifications specified in Para (1) above,*

(a) A Teacher appointed on or after the 3rd September, 2001 i.e. the date on which the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time) came into force, in accordance with that Regulation.

Provided that a Teacher of class I to V possessing B. Ed qualification, or a Teacher possessing B. Ed (Special Education) or D. Ed (Special Education) qualification shall undergo an NCTE recognized 6 month special programme on elementary education.

b) A Teacher of class I to V with B. Ed qualification who has completed a 6-month Special Basic Teacher Course (Special BTC) approved by the NCTE,

(c) A Teacher appointed before the 3rd September, 2001, in accordance with the prevalent Recruitment Rules.

5 Teacher appointed after the date of this Notification in certain cases.- *Where an appropriate Government, or local authority or a school has issued an advertisement to initiate the process of appointment of Teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time).*

4.8 As such, qualification of holding TET conducted by appropriate authority is condition precedent for appointment of a Teacher in terms of the RTE Act.

4.9 An issue has been taken before the Honorable Supreme Court by the *Anjuman-Ishaat-E-Taleem institute* challenging applicability of the RTE Act to the minority institution. The Honorable Supreme Court, in its landmark judgment laid down certain key principles like (a) Non applicability of RTE Act to Minority Institutions; (b) Mandate of holding TET/CTET (Central TET) qualification as on 01.09.2025 for appointment as an Assistant Teacher; (c) Grace period of 02 years to the serving Teachers who have more than 05 years to superannuate, to clear TET/CTET to continue in the service; (d) Necessity to hold TET/CTET qualification for seeking promotion to the promotional post etc. Pertinent to note, the Honorable Supreme Court has not given any grace period for promotion unlike appointment/continuation in appointment.

4.10 So far as promotion issue is concerned, the Honorable Supreme Court observed at para 'J' as follows:

'J. Applicability Of The Tet To In-Service Teachers Appointed Prior To 2009 And Requirement Of Tet Qualification For Promotion Of Teachers

164. There are yet two other connected issues that require our attention. The TET is a statutory requirement introduced under the RTE Act and the corresponding NCTE notifications. It is aimed at

ensuring minimum professional standards in the recruitment of elementary school Teachers, in line with the mandate under Section 23 of the RTE Act.

165. Section 23 of the RTE Act vests the Central Government with the power to designate an academic authority to prescribe minimum qualifications for Teachers. Pursuant to conferment of such power, the NCTE was notified as the academic authority under sub-section (1) which is empowered to prescribe the eligibility criteria for appointment as Teachers in schools governed by the RTE Act.

166. In exercise of its authority under Section 23(1), the NCTE issued a Notification dated 23rd August, 2010, later amended by Notification dated 29th July, 2011, laying down that passing the TET is a mandatory condition for appointment of Teachers in classes I to VIII in schools covered by Section 2(n) of the RTE Act. The notifications clarify that the TET must be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE. The legal position emerging therefrom is clear: the TET is not a mere procedural requirement but forms an essential part of the minimum qualification criteria.

167. Importantly, the first and second provisos to Section 23(2) of the RTE Act carve out a transitional obligation for in-service Teachers who did not possess the minimum qualifications at the time of commencement of the RTE Act. They were required to acquire such qualifications including passing the TET within a prescribed time frame. The second proviso introduced by the Right of Children to Free and Compulsory Education (Amendment) Act, 2017⁸⁰ extended this compliance period by a period of four years from the date of commencement of the 2017 Amendment Act, which was deemed to have come

into force on 1st April, 2015, i.e., till 2019 and not 2021 if four years were calculated from the date of the notification (i.e., 9th August, 2017). The express legislative intent was to bring all in-service Teachers within the ambit of uniform quality standards.

168. NCTE's notification also reinforces this requirement by stating that Teachers working in unaided private schools, or those already in position as of 31st March, 2015, must qualify the TET within the stipulated period. The language of both the RTE Act and the notification leaves no room for ambiguity that even those Teachers appointed prior to the RTE Act, if not qualified, must meet the TET requirement within the grace period granted. Only those appointed prior to 3rd September, 2001 in accordance with applicable recruitment rules, or those covered by specific exceptions (e.g., Special BTC or D.Ed. courses), were exempted.

169. Thus, read holistically, Section 23 of the RTE Act and the NCTE notifications together establish the TET as a compulsory qualifying criterion for all Teachers appointed on or after 23rd August, 2010, and as a time-bound compliance obligation for those appointed earlier without the requisite qualifications. The sole object is to ensure uniform teaching standards across institutions imparting elementary education. Viewed in this light, the TET is not only a mandatory eligibility requirement but it is a constitutional necessity flowing from the right to quality education under Article 21A.

170. As a logical corollary to the above, it is axiomatic that those in-service Teachers who aspire for promotion, irrespective of the length of their service, have to qualify the TET in order to be eligible to have their candidature considered for promotion."

4.11 Another beneficial reference also can be made to the findings of the Honorable Supreme Court at Paragraph No.M – 195 to 201.

195. Furthermore, reference may be made to the decision of this Court in *K. Narayanan v. State of Karnataka*⁸² where this Court traced the meaning of the word 'recruitment' and held:

"6. ... 'Recruitment' according to the dictionary means 'enlist'. It is a comprehensive term and includes any method provided for inducting a person in public service. Appointment, selection, promotion, deputation are all well-known methods of recruitment. Even appointment by transfer is not unknown."

196. Appointment and recruitment are two distinct but not unrelated concepts. Recruitment is the broader process of which selection is a part that culminates in an appointment. Recruitment can be carried out from various sources, which are broadly classified into internal and external sources. Internal sources would comprise individuals who are already employed within the organization. This would include an appointment by promotion or transfer. External sources, on the other hand, consist of individuals who are not currently in the service of the recruiting organization. Direct recruitment is an appointment from external sources or from open market, so to say.

197. Having noticed what this Court has held in relation to recruitment/ appointment, we turn to Section 23 of the RTE Act.

198. Reading Section 23 of the RTE Act, we find that the first proviso to sub-section (2) of Section 23 thereof assumes importance for dealing with the contention. For brevity, the proviso is reproduced below:

"Provided that a Teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years."

199. The proviso provides for a deadline for all

Teachers, who are in service, to acquire the prescribed minimum qualifications within a period of five years. Should they fail to do so, they render themselves ineligible to continue on their post. The objective behind introducing the proviso is to uphold the best interest of the children by ensuring quality education, not only through Teachers who were to be appointed after the commencement of the RTE Act but also for in-service Teachers.

200. If we are to accept the contention of the in-service Teachers, the abovesaid proviso would be rendered nugatory. Obtaining the TET qualification under the RTE Act is mandatory and the consequence of not obtaining such qualification flowing from the scheme of the RTE Act is that the in-service Teachers would cease to have any right to continue in service. Reference may also be made to letter dated 3rd August, 2017 (discussed in paragraph 69 above) issued by the MHRD which provided a deadline beyond which the in-service Teachers, having not qualified the TET, would not be permitted to continue in service.

201. Having regard to the foregoing, we see no reason to hold that the minimum qualifications prescribed by the Council would apply only for initial appointment and not for promotion.

4.12 A profitable reference can be made to the paragraph Nos. 216 and 218 of the Judgment which are reproduced below for the sake of convenience:

“216. Bearing in mind their predicament, we invoke our powers Under Article 142 of the Constitution of India and direct that those Teachers who have less than five years' service left, as on date, may continue in service till they attain the age of superannuation

without qualifying the TET. However, we make it clear that if any such Teacher (having less than five years' service left) aspires for promotion, he will not be considered eligible without he/she having qualified the TET.

218. Subject to what we have said above, it is reiterated that those aspiring for appointment and those in-service Teachers aspiring for appointment by promotion must, however, qualify the TET; or else, they would have no right of consideration of their candidature.

4.13 Thus, its abundantly clear that the candidates who hold TET/CTET are the only Teachers qualified for promotion.

4.14 Now in the case in hand, the respondent authorities were in the process to initiate promotion process for the posts of Head Master, Cluster Head, Graduate Teacher, Extension Officer (Teacher) through the feeding posts of Teacher category. The Directorate of School Education sought instructions from the NCTE regarding applicability of the Judgment in **Anjuman case** (supra). Vide letter dated 19.01.2026, the State Government clarified that only TET holder Teachers shall be qualified for promotion. Accordingly, vide letter dated 09.02.2026 the Director of Education (Primary) informed that TET shall be a mandatory condition for promotion. Promotion is not a service condition that takes place overnight. The promotion process in the Zilla Parishad was on large scale.

Accordingly, promotion process was initiated on 18.02.2026 which is the crucial date.

4.15 Pursuant to above, the Zilla Parishad Jalna vide letter dated 18.02.2026 initiated promotion process to the promotional posts (supra).

4.16 It is an undisputed fact that the Petitioners were not holding TET/CTET neither on 01.09.2025 nor on the date on which the promotion process was initiated i.e. 18.02.2026. Vide letter dated 23.02.2026, the Akhil Maharashtra Urdu Shikshak Sanghatana Jalna, under the signature of the Petitioner No.1 submitted a request letter to the Education Officer (Primary), Zilla Parishad Jalna. It was requested that since a number of Teachers have appeared for the TET/CTET examination conducted on 7th and 8th February 2026, the promotion process be stalled to enable the successful aspirants to be considered for the promotion.

4.17 Vide another letter dated 20.02.2026 a request was submitted to the Education Officer (Primary) Z.P. Jalna by some Teachers mentioning that there is no time stipulation for implementing the promotion process. That, period of two years was granted to clear TET/CTET examination for Teachers to continue in services. That, promotion be granted on the basis of seniority and two years time be granted to clear the TET/CTET to the promotee who were not

possessing TET/CTET. Similar request was also made by some other Teachers.

4.18 The Petitioners filed present petition mentioning urgency. On 13.03.2026, this Court issued limited interim directions to the Zilla Parishad authorities to hold on the final stage of the promotion. In the meantime, some of the Teachers who participated TET/CTET cleared the examination, and they now claim that their names be considered for promotion.

4.19 The facts are very clear and unambiguous. The Petitioners were not holding qualification of TET/CTET on 01.09.2025 or on the date of initiation of the promotion process. They merely appeared for the CTET examination. Their result is declared later. The Honorable Supreme Court has held that qualification of TET/CTET is compulsory even for promotion. We are bound by the principles laid down by the Honorable Supreme Court in *Anjuman case* (supra). The directions and observations of the *Anjuman case* (supra) are the mandates for all. No exception can be taken to those nor they can be interpreted the way the Petitioners pray.

4.20 Now here is the case where Petitioners submit that since the promotion process is not yet finalized, the successful petitioners in CTET be included in the promotion list. They submit that finalization of the promotions was stalled due to intervention of this Court

finding *prima facie* case in favor of the Petitioners. And hence, they want that effect of CTET result be made applicable retrospectively by curing the seniority list.

4.21 We do not concede with such arguments. Petitioners' result can not be made effective retrospectively. This Court while passing order on 13.03.2026 has not expressed anything on merits of the case. As observed above, process of promotion is not an overnight act to be done by the Zilla Parishad. It has multiple stages. In order to test Petitioners' case on merits, the limited interim directions were issued. In any case, there can be no exception to the observations and directions issued by the Honorable Supreme Court in *Anjuman case* (supra).

4.22 Hence there is no vested right in favor of the Petitioners to claim promotion through such promotion process which was in pipeline while the Petitioners had filed present petition. Resultantly, neither the promotion process could be stalled anymore nor the right of the candidates falling in the zone of promotion in the said promotion process could be intervened. Needless to mention, the TET/CTET petitioner may be qualified for subsequent promotion process, but not in the present one.

4.23 This Court, while dealing with a similar petition has observed on 10.04.2026 in Writ Petition no.2771 of 2026 with connected matters (***Sanju Rathod & ors. Vs. State and ors.***) thus:-

10. Here, we are basically required to consider the ratio laid down in Anjuman Ishaat-E-Taleem Trust (Supra) and whether the petitioners can be said to be entitled to be considered for the promotion. Even in the interim order, on which now the learned Advocate for the petitioners is relying, we had observed that those Teachers who had cleared the TET would be considered for promotion. So as of right the petitioners' cannot seek any interim protection. We would consider the point ' J ' of the decision in Anjuman Ishaat-E-Taleem Trust (Supra) i.e. applicability of the TET to in- service Teachers appointed prior to 2009 and requirement of the TET qualification for promotion of Teachers. Paragraph Nos.164 to 170 of the aforesaid judgment discuss the aspect and especially in paragraph No.170, it has been observed thus :-

"170. As a logical corollary to the above, it is axiomatic that those in-service Teachers who aspire for promotion, irrespective of the length of their service, have to qualify the TET in order to be eligible to have their candidature considered for promotion."

11. We are also taking note of paragraph Nos.216 to 218 of the aforesaid judgment, which read thus :-

"216. Bearing in mind their predicament, we invoke our powers Under Article 142 of the Constitution of India and direct that those Teachers who have less than five years' service left, as on date, may continue in service till they attain the age of superannuation without qualifying the TET. However, we make it clear that if any such Teacher (having less than five years'

service left) aspires for promotion, he will not be considered eligible without he/she having qualified the TET.

217. Insofar as in-service Teachers recruited prior to enactment of the RTE Act and having more than 5 years to retire on superannuation are concerned, they shall be under an obligation to qualify the TET within 2 years from date in order to continue in service. If any of such Teachers fail to qualify the TET within the time that we have allowed, they shall have to quit service. They may be compulsorily retired; and paid whatever terminal benefits they are entitled to. We add a rider that to qualify for the terminal benefits, such Teachers must have put in the qualifying period of service, in accordance with the rules. If any Teacher has not put in the qualifying service and there is some deficiency, his/her case may be considered by the appropriate department in the Government upon a representation being made by him/her.

218. Subject to what we have said above, it is reiterated that those aspiring for appointment and those in-service Teachers aspiring for appointment by promotion must, however, qualify the TET; or else, they would have no right of consideration of their candidature.

12. Paragraph No.170 of the decision in Anjuman Ishaat-E-Taleem Trust (Supra) is crystallizing the right, yet if we read paragraph Nos.216 and 218 conjointly, then it can be seen that it has been laid down that those Teachers, who have less than five years left as on date (that means on 01.09.2025 when the decision came) may continue in service, till they attain the age of superannuation without qualifying the TET, however, those Teachers having left less than five years, if aspire promotion, then without qualifying TET, he or she will not be considered and then paragraph No.218 reiterates that those in-service

Teachers aspiring for appointment by promotion should qualify TET and this date will have to be taken as 01.09.2025, when Hon'ble Supreme Court pronounced the judgment.

4.24 While the competent authority canceled the promotion list on account of realizing that the some of the enlisted candidates were not holding TET/CTET, the excluded candidates filed Writ Petition No.2547 of 2026 in this Court. After conscious consideration to the facts of the case, this Court vide its Judgment and Order dated 23.04.2026 upheld the decision of the Authorities in the light of the observations made in the case of ***Sanju Rathod and ors.(supra)***.

4.25 The alternate prayer to promote the Teachers as per seniority and to grant two years period to clear TET/CTET after promotion alike appointments, is beyond the observations and the directions issued by the Honorable Supreme Court. The Honorable Supreme Court has thoughtfully excluded the process of promotion from the grace period of two years that is offered for the in-service Teachers for continuation as Teacher. As such, a Teacher must possess TET/CTET for promotion on the date of initiation of the promotion process; and there cannot be *ex post facto* TET/CTET qualification compliance.

4.26 We find that no further words are needed to hold that Petitioners' case is perfectly hit by the law laid down by the Honorable Supreme Court in the case of *Anjuman* (supra). The interim order dated 13.03.2026 passed by this Court did not create any right in any of the Petitioners' favor nor can be used to take exception to the law laid down in *Anjuman case* (supra).

4.27 Consequently, we answer the framed issues and hold that:

(1) Teachers until qualify TET/CTET, cannot reserve a right for promotion in the promotion process, and even though the TET/CTET examination has been conducted prior to the initiation of the promotion process;

AND

(2) TET/CTET qualification shall not be retrospectively applicable for the purpose of promotion.

5. Hence, we pass following order.

ORDER

- I. The Writ Petition stands dismissed.
- II. Interim orders merge in this order.
- III. All Civil Applications stand disposed in view of dismissal of the Writ Petition.

- IV. The Respondent authorities may continue with the impugned promotion process.
- V. Rule stands discharged.

[AJIT B. KADETHANKAR, J]

[SMT. VIBHA KANKANWADI, J.]

Rushikesh/2026