



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 4515 OF 2026

SHIVSHANKAR GURULING GADHAVE AND ORS
VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND ORS

...

Mr. E. S. Murge, Advocate for the Petitioners
Ms. Neha Kamble, AGP for Respondent/s – State

WITH
CIVIL APPLICATION NO. 4865 OF 2026
IN WP/4515/2026

EKNATH SITARAM MOTE AND ORS
VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND ORS

...

Mr. G. K. Kshirsagar, Advocate for Applicants
Ms. Neha Kamble, AGP for Respondent/s – State
Mr. E. S. Murge, Advocate for Petitioner in W.P.

...

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

DATE : 04.05.2026

PER COURT :-

. Civil Application No.4865 of 2026 has been filed for intervention
in Writ Petition No.4515 of 2026, which would be decided along with Writ
Petition itself.

2. Heard learned Advocate Mr. E. S. Murge for the petitioners, learned Advocate Mr. G. K. Kshirsagar for applicants in Civil Application No.4865 of 2026 and for petitioners in Writ Petition No.4515 of 2026, learned AGP Ms. Neha Kamble, for respondents/State.

3. In this petition, what has been challenged is the letter dated 03.04.2026 issued by Education Officer, thereby finalizing and publishing the impugned seniority list of Extension Officer (Education), centre Head, principal and graduate primary teachers. It was on the basis of the data that was collected and the eligibility criteria is that those persons, who had cleared TET or CTET, should be given the said promotion of Extension Officer (Education), centre Head, principal and graduate primary teachers. The petitioners submitted that they have fulfill all eligibility criteria for promotion except the formal submission of the TET certificate. Therefore, they have given written objection to Chief Executive Officer Zilla Parishad, Dharashiv requesting the inclusion of their names in the seniority list and same be considered for the purpose of promotion as the Apex Court has granted two years of time to submit the TET certificate and petitioners are ready to give undertaking/affidavit in that respect. The petitioners have put in the service of long tenure and in such circumstance, if they are deprived of the promotion on the ground that as on the date of list they have not passed TET or CTET,

then it would be unjust for them. According to the petitioners/applicants, the action of the Zilla Parishad is ex facie illegal and arbitrary.

4. Learned AGP for the respondent/s - State vehemently submits that in view of *Anjuman Ishaat-E-Taleem Trust vs. State of Maharashtra and others, 2025 SCC OnLine SC 1912*, Hon'ble Supreme Court has made it very clear that the teachers who are teaching in the primary schools after coming into force of the RTE Act should possess the qualification of TET and for promotion it is specifically stated that those who have cleared TET or CTET they should only be considered. As on today, the petitioners have not qualified. After they acquire that qualification their names would be considered.

5. Here, it is to be noted that various petitions have been filed by the teachers contending that they have appeared for TET or CTET exams and their results are awaited, still the Zilla Parishad authorities are proceeding with the process of promotion and, therefore, their seniority would be then get affected and also the promotion chance. As per *Anjuman Ishaat-E- Taleem Trust* (Supra), the period of two years has been granted to the teachers, who had entered the service prior to coming into force of the RTE Act, to clear the TET or CTET. We have taken note of the fact that though the process in some of the Zilla Parishads has started, the promotion list has not been finalized and,

therefore, in some matters we had given directions to the Zilla Parishad authorities not to finalize the list in view of the fact that the result of the examination of the petitioners i.e. CTET is not declared. The facts in the matter are slightly different from other cases, yet broadly we can say that the effect of making TET compulsory as held in ***Anjuman Ishaat- E-Taleem Trust*** (Supra) for promotion will have to be then interpreted taking into consideration the facts of each matter. It is necessary to consider, in each matter, whether, as on the date of the pronouncement of the judgment, only those candidates who had cleared TET or CTET were entitled to promotion, and in what manner the respondents are required to give effect to the said judgment. But taking into consideration the fact that the result is awaited, we thought it fit that the respondent/authorities should go ahead with the entire process, but they should not take the decision of finalizing the list of promotion till the next date. That means, till the affidavits-in-reply are filed and we hear the parties on that point, we had made said arrangement in those matters.

6. 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.”

7. 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.

8. 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.

9. Admittedly, the petitioners were not qualified TET or CTET on 01.09.2025. Certainly, at least for this year, they will not be considered for promotion taking into consideration these facts.

10. Learned Advocate for the petitioners has tried to submit that respondent/authorities have hurriedly proceeded to prepare seniority list and also published a temporary list of promotion with the condition that the said promotion, that is granted, is temporary and if any problem as regards seniority or Court matter arises, then the promoted candidates can be reverted. Here, we do not want to go into the said list for the simple reason that as aforesaid in view of *Anjuman Ishaat-E-Taleem Trust* (Supra) and the fact that the petitioners had not cleared TET or CTET on 01.09.2025, they are not entitled to be promoted this year. In view of the same, the Writ Petition stand dismissed.

11. Pending Civil Applications also stand disposed of.

(AJIT B. KADETHANKAR, J.)

(SMT. VIBHA KANKANWADI, J.)