

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2195 OF 2026**

- 1. Balnath Krishna Davari,**
Age : 50 Years, Occupation : Service,
Residing at Chikhali, Post Chikhali,
Taluka Kagal, District Kolhapur.
- 2. Shankar Mahipati Phaske,**
Age : 50 Years, Occupation : Service,
Residing at Undarwadi, Taluka Kagal.
- 3. Anand Shivaji Patil,**
Age ; 54, Occupation : Service,
Residing at Village Mandur,
Taluka Radhanagari.
- 4. Subhash Kerba Bhandigre,**
Age ; 53 Years, Occ. Service. Petitioners

Vs.

- 1. State of Maharashtra**
through its Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 400032.
- 2. The Director of Education (Primary),**
Maharashtra State, Pune.
- 3. The Chief Executive Officer,**
Zilla Parishad Kolhapur.
- 4. The Education Officer (Primary),**
Zilla Parishad Kolhapur.
- 5. State of Maharashtra,**
Through Principal Secretary,

School Education and Sports Department,
Mantralaya, Mumbai – 400032.

6. State of Maharashtra,

Through Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai – 400032

....Respondents

AND

WRIT PETITION NO. 2196 OF 2026

1. Shri Santosh Ramchandra Utekar

Age : 56 Years, Occupation : teacher,
Residing at At/Post Sakhar, Taluka Khed,
District Ratnagiri.

**2. Smt. Sunita Govind Rane /
Tejal Yashwant Pedhabkar,**

Age : 51 Years, Occupation : Service,
Working as Assistant Teacher,
Residing at Krushneshwar Nagar,
D-202, Pag Highway,
Tal- Chiplun, District Ratnagiri.

3. Santosh Sudam Bhuvad,

Age : 50 Years, Occupation : Service,
Residing at A-9, Ganadhis Apartment,
Opposite Phatak High School,
Near Patit Pawan Mandir,
Subhash Road, Varchi Aali,
Ratnagiri – 415612.

4. Shri Dattaram Shantaram Bhandari,

Age : 56 Years, Occupation : Service,
Residing at At/Post Nivali,
Tal- Chiplun, District Ratnagiri.

....Petitioners

Vs.

1. State of Maharashtra

through its Principal Secretary,

School Education and Sports Department,
Mantralaya, Mumbai – 400032.

2. **The Director of Education (Primary),**
Maharashtra State, Pune.

3. **The Chief Executive Officer,**
Zilla Parishad Ratnagiri

4. **The Education Officer (Primary),**
Zilla Parishad Ratnagiri

5. **State of Maharashtra,**
Through Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 400032.

6. **State of Maharashtra,**
Through Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai – 400032

....Respondents

Ms. Ankita Chindage, advocate for the petitioners

Mr. V. M. Mali, AGP for the State in WP 2195/2026

Mr. S. B. Kalel, AGP for the State in WP 2196/2026

Mr. Kedar Lad a/w Ms. Indarayani Patil, advocate for respondent
nos. 3 and 4.

**CORAM : SMT. VIBHA KANKANWADI &
NANDESH S. DESHPANDE, JJ.**

RESERVED ON: 08/06/2026

PRONOUNCED ON: 12/06/2026

JUDGMENT: PER: (NANDESH S. DESHPANDE, J.)

1. We have heard both matters on 08/06/2026 and dismissed
the same for reasons to be recorded hereinafter. Accordingly, the

reasons for dismissal of the petitions are recorded.

2. Heard. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

3. Present petitions seek a direction to the respondents to consider the case of the petitioners for promotion on the basis of eligibility existing as on the first day of the present month, since the District Promotion Committee (DPC) is being conducted. The petitions further pray for a declaration that the Teacher Eligibility Test (TET) and Central Teacher Eligibility Test (CTET) shall not operate retrospectively to deprive the senior teacher of a promotion where DPC has not been conducted. The facts as can be seen from the memo of the petition are as under:

4. The petitioners are aggrieved by communication/letter dated 14/05/2026 issued by respondent no. 2 and the promotion list issued by respondent no. 4 wherein the petitioners' name are excluded.

5. All the petitioners in both petitions are serving as teachers under the Education Department of Zilla Parishad, Kolhapur, and are eligible for promotion to the posts of Extension Officer and Headmaster respectively, after having rendered long years of service

and qualifying TET and CTET examinations. It is the case of the petitioners that they have joined the services on various dates and the service tenure ranges from approximately 30 years. It is further stated in the petition that the Government Resolution dated 13/02/2013 issued by the School Education and Sports Department, Government of Maharashtra under the provisions of Right of Children to Free and Compulsory Education (RTE) Act, 2009 prescribes minimum educational and professional qualifications for primary teachers teaching standards 1st to 7th and further makes passing of the TET compulsory for appointment as a teacher. It is further stated that it is a requirement of the said Government Resolution that all primary teachers presently in service teaching standards 1st to 8th shall also be required to acquire educational and professional qualification in terms of the said Act. Thereafter, the Government of Maharashtra has issued corrigendums on 06/03/2013 and 20/08/2013, whereby the said condition requiring in service primary teachers to acquire the required educational and professional qualification on or before 31/03/2013 came to be withdrawn.

6. It is however, stated in the petition that the Hon'ble Apex

Court, vide Judgment dated 01/09/2025 passed in Civil Appeal No. 1385/2025, held that passing the TET/CTET is mandatory qualification for appointment and promotion under the RTE Act. It is further stated in the petition that the petitioners have acquired the requisite qualification prior to the date of DPC. In pursuance to the Judgment of the Hon'ble Apex Court, a Government Resolution was issued by the State of Maharashtra, making TET/CTET compulsory. The said Government Resolution was issued on 19/01/2026. The petitioners are therefore constrained to approach this Court on various grounds as stated in the petition.

7. We have heard Ms. Ankita Mali, learned advocate for the petitioners, learned AGPs for respondent-State and learned advocate Mr. Kedar Lad for respondent-Zilla Parishad.

8. Learned advocate for the petitioners, by taking us through the record of the matter, submits that excluding the names of the petitioners from the promotion eligibility/select list is arbitrary and unreasonable since the petitioners have fulfilled all requisite eligibility conditions, including seniority and service qualifications. It is also argued that in fact, the petitioners have cleared the TET on 03/02/2026. It is therefore the contention of the petitioners that the

petition needs to be allowed and the reliefs as prayed for are to be granted.

9. *Per contra*, learned AGP, while countering the submissions made by the petitioners, submits that the petitions are devoid of merit and states that, as per the provisions of the RTE Act and in the light of the Judgment of the Hon'ble Apex Court in the case of ***Anjuman Ishaat-E-Taleem Trust Vs. The State of Maharashtra and ors***¹, the petitioners are mandated to acquire the said qualification, and there cannot be escape from it. Thus, learned AGP supports the impugned action.

10. We have given our thoughtful considerations to the contentions canvassed by the learned respective counsel and, with their able assistance, gone through the record. The issue raised by the petitioners and the prayers made therein are no more *res integra* and have been decided by this Court at Aurangabad Bench in **Writ Petition No. 2737 of 2026** and connected Writ Petitions on 29/04/2026, to which one of us (Smt. Vibha Kankanwadi, J.) was a member. In the said Writ Petition, two issues which fell for consideration of the Bench were: (i) Whether if candidates having

¹ 2025 INSC 1063

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 the qualification of TET/CTET could be retrospectively made applicable for promotion.

11. The case in hand has more or less similar facts since, in the present case also, the petitioners have cleared TET on 03/02/2026. In the said Judgment referred (supra), the co-ordinate Bench at Aurangabad, has in detail analyzed the legal position along with provisions which fell for consideration. We are in respectful agreement with the said Judgment of the co-ordinate Bench. It can be seen from the matter in hand and the Judgment referred to (supra), that the question which needs to be decided necessarily refers to the provisions of the RTE Act which was brought to the statute book with an object to ensure free and compulsory education to the children in the age group between 6 to 14. Section 23 of the said Act provides for qualifications for appointment and terms and conditions of service of teachers. Pursuant to Section 23 of the said Act, the National Council for Teacher Education (NCTE), which is the Apex body in the country for framing uniform modalities in schools, issued a Notification on 23/08/2010 thereby

mandating that the essential qualification i.e. TET must be possessed by the candidate seeking appointment as a teacher in any school as referred in Section 2(n) of the RTE Act. Thus, it can very well be said that holding TET qualification is a condition precedent for appointment of a teacher in terms of the RTE Act.

12. Furthermore, it is a matter of record that the Hon'ble Apex Court in the case of ***Anjuman Ishaat-E-Taleem Trust*** challenging the applicability of the RTE Act to the minority institutions, laid down certain principles in the said Judgment. It was held by the Hon'ble Apex Court that the RTE Act would not be applicable to the minority institutions, but the mandate of holding TET/CTET qualification as on 01/09/2025 for appointment of as an assistant teacher is a condition precedent. It can thus be seen that the case of the petitioners is within the teeth of the Judgment of the Hon'ble Apex Court and the Judgment of the co-ordinate Bench of this Court.

13. It is thus clear from the above said narration that the candidates who hold TET/CTET are the only teachers qualified for the promotion. It can thus very well be said that there is no vested right in favour of the petitioners to claim promotion or for consideration since said promotion process was already in the

pipeline when the petitioners filed the present Petitions, as the draft seniority list was published on 18/05/2025. It can thus very well be seen that the case is squarely hit by the effective judicial pronouncement of the Hon'ble Apex Court in the case of *Anjuman Ishaat-E-Taleem Trust*. Thus, the teachers like the petitioners, until they qualify for TET/CTET, cannot reserve a right for promotion in the promotion process and the said qualification shall not be retrospectively made applicable for the purposes of promotion.

14. In that view of the matter, the challenge in the petitions is misconceived and liable to be dismissed. Writ Petitions are accordingly dismissed.

[NANDESH S. DESHPANDE, J.]

[SMT. VIBHA KANKANWADI, J.]

IRESH
MASHAL

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