

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3461 OF 2026

1. Shailesh Kashinath Raut,
Age : 53 years,
Presenting working at Z.P. School Dabhale,
Tal. Dahanu, Dist. Palghar – 401103.
2. Dilip Shantaram Pimple,
Age : 56 years,
Presenting working at Z.P. School, Mahagaon
Tal. & Dist. Palghar – 401501.
3. Gajendra Ramchandra Pimple,
Age : 53 years,
Presenting working at Z.P. School-
Khairepada, Tal. & Dist. Palghar.
4. Mahesh Ramchandra Pimple,
Age : 53 years,
Presenting working at Z.P. School- Vevur,
Tal. & Dist. Palghar.
5. Manoj Budhaji More,
Age : 53 years,
Presenting working at Z.P. School,
Kainad Kotabipada,
Tal. Dahanu, Dist. Palghar.
6. Bachhu Balu Rokada,
Age : 55 years,
Presenting working at Z.P. School-
Ambesari Khadakipada,
Tal. Dahanu, Dist. Palghar.
7. Bharati Hareshwar Khatal,
Age : 52 years,
Presenting working at Z.P. School,
Bavade-Navapada,
Tal. Dahanu, Dist. Palghar.

8. Vasant Ragho Soman,
Age : 54 years,
Presenting working at Z.P. School,
Osavira, Tal. Dahanu, Dist. Palghar.
9. Darshna Sunil Vartak,
Age : 52 years,
Presenting working at Z.P. School-
Saravali Patilpada,
Tal. Dahanu, Dist. Palghar.
10. Dattu Lahanya Gadag,
Age : 53 years,
Presenting working at Z.P. School,
Vankas Vaghaipada, Dist. Palghar.
11. Dilip Raghunath Davada,
Age : 56 years,
Presenting working at Z.P. School,
Chimbave Bramhanpada,
Tal. Dahanu, Dist. Palghar.
12. Jamu Jethya Varkhandya,
Age : 51 years,
Presenting working at Z.P. School,
Jamshet Savarpada,
Tal. Dahanu, Dist. Palghar.
13. Jana Tulsi Dauda,
Age : 54 years,
Presenting working at Z.P. School,
Asave Savarpada,
Tal. Dahanu, Dist. Palghar.
14. Jayshree Vidyadhar Subhane,
Age : 54 years,
Presenting working at Z.P. School-
Dabhale, Tal. Dahanu, Dist. Palghar.

15. Jaywant Bhika Namkoda,
Age : 55 years,
Presenting working at Z.P. School-
Vadakun Lonipada,
Tal. Dahanu, Dist. Palghar.
16. Jyoti Vilas Komb,
Age : 55 years,
Presenting working at Z.P. School-
Debale, Tal. Dahanu, Dist. Palghar.
17. Kashiram Kalya Bhoje,
Age : 55 years,
Presenting working at Z.P. School-Kasa,
Tal. Dahanu, Dist. Palghar.
18. Lata Krushna Donadkar,
Age : 55 years,
Presenting working at Z.P. School-
Chimbave Bramhanpada,
Tal. Dahanu, Dist. Palghar.
19. Lata Prakash Baviskar,
Age 53 years,
Presently working at ZP School-Vangaon
Kumbhpada, Tal Dahanu, Dist Palghar
20. Laxman Soma Pawar,
Age 53 years
Presently working at ZP School Saiwan,
Tal-Dahanu, Dist-Palghar
21. Laxman Sukar Mahale,
Age 53 years,
Presently working at ZP School Saiwan,
Tal-Dahanu, Dist.-Palghar
22. Madhavi Madhukar Dagala,
Age 56 years,
Presently working at ZP School Charoti,
Tal-Dahanu, Dist. Palghar

23. Neelima Narendra Vayada,
Age 55 years,
Presently working at Z. P. School-
Dhakpada 1, Tal-Dahanu, Palghar
24. Nilam Sunil Sankhe,
Age 53 years,
Presently working at ZP School Palghar
No.1, Dist Palghar.
25. Pradeep Madan Tare,
Age 51 years
Presently working at ZP School Chinchani
No. 3, Tal- Dahanu Dist – Palghar.
26. Pradnya Parshuram Nikole,
Age 56 years,
Presently working at ZP School Vasgaon,
Tal-Dahanu, Dist-Palghar.
27. Mahesh Popat Rawal,
Age 55 years,
Presently working at ZP School Wangaon
Wakipada, Tal. Dahanu, Dist. Palghar.
28. Raghunath Soma Mahale,
Age 52 years,
Presently working at ZP School Shilonda,
Tal-Dahanu, Dist-Palghar.
29. Ramu Sukhad Vayada,
Age 56 years,
Presently working at ZP School,
Raytalichimbatpada, Tal-Dahanu, Palghar.
30. Ravindra Udhhav Ravate,
Age 55 years,
Presently working at ZP School Chimbave
Bramhanpada Tal. Dahanu, Dist. Palghar.

31. Rekha Bhupendra Vartak,
Age 57 years,
Presently working at ZP School Nageshwar-
Pada, Tal-Dahanu, Dist-Palghar
32. Ramchandra Bhanya Wagat,
Age 53 years,
Presently working at ZP School Sironda
Chinchpada, Dist. Palghar.
33. Rubina Ashfaq Shaikh,
Age 52 years
Presently working at ZP School Chinchani
No. 4, Tal-Dahanu, Palghar
34. Sainath Ramachandra Hamre,
Age 53 years,
Presently working at ZP School Savate
Marathi, Tal. Dahanu Dist Palghar.
35. Sunita Ajay Bujad,
Age 52 years,
Presently working at ZP Kotbi Bujadpada.
Tal-Dahanu, Dist-Palghar
36. Suresh Ganpat Dhulsada,
Age 55 years,
Presently working at ZP School Jitgaon
Tal. Dahanu, Dist. Palghar
37. Suresh Satya Mhaskar,
Age 53 years,
Presently working at ZP School Avadhani
Kompada, Tal Dahanu Dist Palghar
401602.
38. Ulka Uday Sankhe,
Age 52 years,
Presently working at ZP School Vevur,
Tal Dist- Palghar.

39. Unmesh Avinash Save,
Age 55 years,
Presently working at Z. P School
Bhutralman, Tal. Dist. Palghar
40. Venu Raghunath Bhoje,
Age 56 years,
Presently working at Z.P. School Tava,
Tal. Dahanu, Dist. Palghar
41. Yashvant Kashinath Gavit,
Age 53 years,
Presently working at ZP School
Sukhadaamba Shirasonpada, Tal Dahanu,
Dist Palghar.
42. Yashwant Dasma Chimbada,
Age 54 years,
Presently working at ZP School Jitgaon,
Tal. Dahanu, Dist. Palghar
43. Ajay Vasudev Patil,
Age 49 Years,
Presently Working at ZP School Savate
Marathi, Tal Dahanu, Dist Palghar.
44. Dipali Dilip Pimple,
Age 52 Years,
Presently Working at ZP School-
Khairepada, Tal, Dist-Palghar 401501.
45. Kanchan Gajendra Pimple,
Age 48 years,
Presently Working at ZP School
Lokhandipada Tal Palghar Dist Palghar.
46. Maduri Umesh Raut,
Age 50 Years,
Presently Working at ZP School-Tembhode,
Tal Dist-Palghar.

47. Nayana Ashok Wade,
Age 56 Years, Presently Working at ZP
School Saravali, Tal Dist-Palghar 401501.
48. Pranitkumar Prabhakar Parundekar,
Age 47 Years
Presently Working at ZP School-Boisar
Marathi, Tal Dist-Palghar.
49. Priyanka Pramod Sankhe,
Age 57years
Presently Working at ZP School
Machhipada, Tal Dist-Palghar 401501.
50. Umesh Baban Raut,
Age 54 years,
Presently Working at Mahim Ingalepada
No-2, Tal & Dist-Palghar.
51. Purva Prashant Pimple,
Age 48 years,
Presently working at ZP School Kolawade,
Tal. Dist Palghar
52. Dhanesh Ganu Bhandari,
Age 53 Years,
Presently working at Jambhale Bhendwad,
Tal Dist. Palghar.
53. Rajendra Sakharam Sankhe,
Age 48 Years,
Presently working at Jambhale Bhendwad,
Tal. Dist. Palghar.
54. Sumita Bhalchandra Sankhe,
Age 58 Years,
Presently working at Shewali,
Tal. Dist Palghar.

55. Sujata Vipin Wade,
Age 42 years,
Presently working at ZP School Dhondipada,
Tal. Dist. Palghar
56. Manish Atmaram Patil,
Age 49 years,
Presently working at ZP School
Haranpada, Tal. Dist. Palghar
57. Avinash Raghunath Patil,
Age 51 years,
Presently Working at ZP School Birwadi,
Tal. Dist. Palghar.
58. Archana Yogesh Sankhe,
Age 50 Years ,
Presently Working at ZP School Bhoisar
Lokhnadipada, Tal. Dist. Palghar.
59. Navidmo Shoil Shaikh,
Age 53 years,
Presently working at ZP School Shirgaon
Urgu, Tal. Dist. Palghar.
60. Santosh Shantaram Mhatre
Age 49 years,
Presently Working at ZP School Aachole
Tal. Vasai Dist. Palghar
61. Ashok Somnath Gavit,
Age 52 years,
Presently Working at ZP School Varvada
Patilpada, Dist Palghar.
62. Damu Diwal Baraf,
Age 52 years,
Presently Working at ZP School Kochai
Patilpada. Tal Talasari Dist. Palghar.

63. Ditmal Kutwal Pawara,
Age 53 years

Presently Working at ZP School Ghimniya
Paraspada, Dist. Palghar.
64. Jana Dharma Dabake,
Age 52 years,
Presently Working at ZP School Varvada
Patilpada, Dist Palghar.
65. Jana Raghu Dhum,
Age 55 Years,
Presently Working at ZP School Avhchad
Industries Dist. Palghar.
66. Kiran Ditya Valvi,
Age 51 years,
Presently Working at ZP School Girgaon
Dolharpada Dist. Palghar.
67. Madan Janu Shingade,
Age 53 Years,
Presently Working at ZP School Girgaon
Arajpada Tal. Talasari Dist. Palghar.
68. Navin Keshav Dhodi,
Age 49 years,
Presently Working at PM Shri ZP School
Kawada Thakarpada, Tal Talasari,
Dist. Palghar
69. Nicholas Mahanak Baraph,
Age 51 Years,
Presently Working at ZP School Bormal
Patilpada Tal. Talasari Dist. Palghar.
70. Rajesh Namdeo Lahamge,
Age 52 years,
Presently Working at ZP School Dongari
Vilatpada Tal. Talasari Dist. Palghar

71. Rajesh Ratna Vaghat,
Age 51 years,
Presently Working at ZP School Ghimniya
Vanjarpada, Dist Palghar.
72. Sainu Kishor Sutar,
Age 54 years,
Presently working at Z.P. School Uplat
Kondharpada, Tal. Talasari, Dist. Palghar.
73. Sheela Shantaram Talha,
Age 54 years,
Presently working at Z.P School
Shetkishala Talasari, Tal-Talasari,
Dist.- Palghar
74. Subhash Paskal Khatale,
Age 52 years,
Presently working at ZP School Talasari
Musalpada, Tal. Talasari, Dist. Palghar
75. Govind Jethya Dombhare,
Age 51 years,
Presently working at ZP School Dongari
Vilatpada, Tal. Talasari, Dist. Palghar.
76. Arun Wajya Kode,
Age 54 years,
Presently working at ZP School
Bhudanpada,
Tal. Wada, Dist. Palghar.
77. Ashok Kanhu Ghagas,
Age 55 years,
Presently working at ZP School, Tilase,
Tal-Wada Dist. Palghar
78. Atul Janardan Jawharkar,
Age 54 years,
Presently working at ZP School Sonshiv
Tal. Wada Dist. Palghar.

79. Balu Pandu Mengal,
Age 53 years,
Presently working at Z. P. School
Kalambhe, Tal-Wada Dist-Palghar,
80. Bhagavan Kisan Meghawale,
Age 53 years, Presently working at ZP
School Khupari, Tal. Wada, Dist. Palghar.
81. Bhaskar Vishram Tarvi,
Age 56 years,
Presently working at Z.P.School-
Malavkarpada, Tal-Wada, Dist-Palghar.
82. Chandrakala Chandrakant Patil,
Age 55 years,
Presently working at
ZP School Tilase, Tal. Wada Dist. Palghar.
83. Devram Lahanu Topale,
Age 56 years,
Presently working at ZP
School Kumbhiste, Tal Wada Dist. Palghar.
84. Dilip Ganpat Mokashi,
Age 52 years,
Presently working at ZP School Malipada, \
Tal.-Wada, Dist.-Palghar.
85. Ganesh Bhikaji Patil,
Age 55 years Presently working at ZP
School-Dahe, Tal.-Wada, Dist.-Palghar
86. Pratap Mahadu Dalavi,
Age 54 years,
Presently working at ZP School Moj,
Tal. Wada Dist. Palghar.
87. Ramchandra Laxman Sapte,
Age 53 years, Presently Working at Z.P.

School Charanwadi, Post Parali, Tal. Wada,
Dist. Palghar -421303.

88. Ratanprbha Lotan Warude,
Age 56 years,
Presently Working at ZP School Umrothe
Tal. Wada Dist. Palghar
89. Ravindra Vithu Harad,
Age 56 years,
Presently Working at ZP School Pali,
Tal. Wada. Dist. Palghar.
90. Sadhana Mukesh Bhanushali,
Age 52 years,
Presently Working at Z.P. School
Hamrapur, Tal. Wada, Dist. Palghar.
91. Sangita Sunil Thakare,
Age 54, Years, Presently Working at ZP
School Wada, Tal. Wada Dist. Palghar
92. Sanjay Shamrao Vinjari,
Age 54 years,
Presently working at ZP School-
Balshetpada
Tal.-Wada, Dist.-Palghar
93. Santosh Baban Jadhav,
Age 52 years,
Presently working at ZP School Dodepada,
Tal. Wada, Dist Palghar.
94. Shobha Arun Panhale,
Age 57 years,
Presently working at ZP School Pali,
Tal. Wada, Dist.Palghar
95. Tukaram Ananta Chaudhari,
Age 55 years,
Presently working at Z.P. School Nishet,

Tal. Wada, Dist. Palghar

96. Umesh Madhav Khirade,
Age 48 years,
Presently working at ZP School Pall,
Tal.-Wada Dist. Palghar
97. Urmila Umesh Khirade,
Age 53 Years,
Presently working at ZP School, Varale
Tal.-Wada, Dist. Palghar
98. Vasant Pandurang Sonavane,
Age 56 Years,
Presently working at ZP School Morepada,
Tal. Wada, Dist. Palghar.
99. Vidhya Krushna Savant,
Age 55 years,
Presently working at ZP School Kone,
Tal. Wada, Dist. Palghar.
100. Vijay Dattatrey Sawant,
Age 56 years,
Presently working at ZP School-Palsai
Tal. Wada, Dist. Palghar.
101. Ranjita Rajaram Ghagas,
Age 54 years,
Presently working at ZP School
Bhujadpada, Tal. Wada, Dist. Palghar.
102. Ravindra Kondaji Chabake,
Age 53 years,
Presently working at ZP School
Radepada, Tal. Vikramgada Dist. Palghar
103. Bharat Dajibhai Patil,
Age 55 years,
Presently working at ZP School Masoli
Marathi, Tal Dahanu, Dist Palghar.

104. Ravindra Somaji Wadu,
Age 54 years,
Presently working at ZP School Wadavali
Fharalpada, Tal Talsarasi, Dist. Palghar.

105. Umesh Ramchandra Patil,
Age 52 years.
Presently working at ZP School Wadapada,
Tal. Jawhar, Dist Palghar.

106. Dinesh Mandu Dhodia,
Age 56 years, Presently working at
ZP School Ganjad,
Tal. Dahanu Dist Palghar

107. Manish Krishnarao Raut,
Age 53 years,
Presently working at ZP School Bordi,
Tal Dahanu Dist Palghar.

...Petitioners

Vs.

1. The State of Maharashtra,
Through Principal Secretary,
Department of School And Education
Mantralaya, Mumbai - 32.

2. The State of Maharashtra,
The Principal Secretary,
Rural Development And Water
Conservation Department,
Mantralaya, Mumbai - 01.

3. The Deputy Director of Education,
(Primary) Mumbai Division, Mumbai

4. The Zilla Parishad, Palghar
Through Chief Executive Officer,
Dist: Palghar.

5. The Education Officer (Primary),
Zilla Parishad Palghar, Palghar.

...Respondents

Mr. Suresh Pakale, Senior Advocate a/w Mr. Nitesh Desai i/by Ms. Padmaja Malgaonkar for Petitioners.

Mr. B.V. Samant, Additional GP a/w Mr. A.K. Naik, AGP for Respondents-State.

Mr. Ajit M. Savagave, Advocate for Respondent Nos. 4 and 5.

**CORAM : RAVINDRA V. GHUGE &
HITEN S. VENEGAVKAR JJ.**

DATE : 15th APRIL, 2026.

ORAL JUDGMENT (PER : RAVINDRA V. GHUGE)

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioners, have put forth their prayers as under :

“a) this Hon'ble Court be pleased to exercise the jurisdiction vested in it under Article 226 of the Constitution of India and issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, and call for papers and proceeding from the custody of the Respondent Nos. 4 and 5 in respect of the Communication dated 24th February 2026 and 5th March 2026 (Exhibit F colly) and after examining its legality, validity and judicial propriety, quash and set aside the same.

(b) That this Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the constitution of India and issue a writ of mandamus and/or writ in the nature of Mandamus, order or direction, directing Respondent Nos. 4 and 5 not to take further steps

*to give promotions only to those teachers who have passed TET Examination and in view of the communication addressed to various authorities dated 24th February 2026 and 05th March 2026 **(Exhibit F colly)** and further not to promote them to the post of Headmaster.*

*(c) That this Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the constitution of India and issue a writ of mandamus and/or writ in the nature of Mandamus, order or direction, directing Respondent Nos. 4 and 5 to consider the Petitioners candidatures for a promotion to the post of Headmaster on the basis of List dated 10th September 2024 **(Exhibit B)** and further promote them to the said post in accordance with their seniority and qualification without reference to TET Examination.*

(d) That this Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the constitution of India and issue a writ of mandamus and/or writ in the nature of Mandamus, order or direction, directing Respondent Nos. 4 and 5 to consider the Petitioners candidatures for a promotion to the post of Headmaster, Cluster Head and Extension Education Officer on the basis of their seniority in the Respondent service.

*(e) Pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to stay the operation, implementation and execution of the impugned Communication dated 24th February 2026 and 05th March 2026 **(Exhibit F colly)** and thereafter quash and set aside the same.*

(f) Pending hearing and final disposal of this Writ Petition, this Hon'ble Court may be

*pleased to direct the Respondent Nos. 4 and 5 to consider the Petitioners candidatures for a promotion to the post of Headmaster on the basis of List dated 14th September 2024 (**Exhibit B**) and further promote them to the said post in accordance with their seniority and qualification without reference to TET Examination.*

*(g) Pending hearing and final disposal of this Writ Petition, this Hon'ble Court may be pleased to direct Respondent Nos. 4 and 5 not to take further steps to give promotions only to those teachers who have passed TET Examination in view of the communication addressed to various authorities dated 24th February 2026 and 05th March 2026 (**Exhibit F colly**) and further not to promote them to the post of Headmaster*

(h) Pending hearing and final disposal of this Writ Petition, this Hon'ble Court may be pleased to direct Respondent Nos. 4 and 5 to consider the Petitioners candidatures for a promotion to the post of Headmaster, Cluster Head and Extension Education Officer on the basis of their seniority in the Respondent service.

3. The learned Senior Advocate, Mr. Pakale prays that his entire written notes of arguments should be considered by the Court.

4. We are summarising his oral and written submissions, as under:

(a) The principal issue that was raised in *Anjuman Ishaat E Taleem Trust v/s The State of Maharashtra & Ors.*

(Civil Appeal No. 1385/2025) was whether TET forms a part of the minimum qualifications and whether teachers appointed prior to the Notification dated 23rd August, 2010 were required to possess these TET qualifications for continuation of service or promotion.

(b) In order to trace the source and authority of laying down the minimum qualifications including TET, the Hon'ble Court examined and referred the provisions of Article 21A of the Constitution, the provisions of the Right to Education Act, 2009 (**RTE Act**), the National Council of Teacher Education Act, 1993 (**NCTE Act**) and the Notifications issued thereunder from time to time. The relevant discussion of the Hon'ble Apex Court is found in Chapter V of the said Judgment (**Ref: Para 57 to 69**)

(c) The Hon'ble Court finally made the following observations, i.e. Only those appointed prior to 3rd September 2001, in accordance with applicable rules, were exempted from possessing the minimum qualification i.e.

TET. This observation is made after perusing the relevant provision and also the Notification dated 23rd August 2010.

(d) The Hon'ble Court interpreted Section 23 of RTE Act, Article 21A, NCTE Act and particularly Notification dated 23rd August, 2010 and then, recorded an observation that as per Notification dated 23rd August, 2010 the teachers appointed prior to 3rd September, 2001 are exempted from having minimum qualification of TET. The Hon'ble Court has not added anything which is not traceable either in RTE Act or under NCTE Act and particularly Notification dated 23rd August, 2010. It is also material to note that there is nothing on record to infer that the minimum qualification of having TET was introduced prior to 3rd September, 2001 either under NCTE Act or any other Act.

(e) The observations found in Chapter M i.e. requirement of minimum qualification and in Chapter VIII i.e. applicability of TET to in service teachers, are made in respect of the teachers who come within the ambit of minimum qualification prescribed under the Notification

dated 23rd August, 2010 and not to all the in-service teachers including the teachers appointed prior to 3rd September, 2001.

(f) The Hon'ble Court, therefore in Para 218 of the Judgment observed that 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; meaning thereby the teachers who are appointed after 3rd September, 2001 are required to have minimum qualification including TET for promotion and for continued in service and not to those appointed prior to 3rd September, 2001.

(g) Teachers appointed prior to 3rd September, 2001 stand completely exempted from the requirement of passing TET for all service purposes including promotion.

(h) Section 23 of the RTE Act empowers prescription of minimum qualification. The NCTE Notification dated 23.08.2010 introduces TET as a qualification. However,

neither the Act nor the notification expressly provides retrospective operation.

(i) Teachers appointed prior to 3rd September, 2001 were validly recruited under the then existing rules. Such appointment confers a vested right to continue in service together with a right to be considered for promotion under the existing rules.

(j) It is settled principle of law that promotion is a continuation of service conditions. Promotion is not a fresh appointment in strict sense; but a progression within the same service.

(k) The Judgment primarily deals with validity and applicability of TET framework. The observations regarding promotion are context specific, made in exercise of Article 142. The Judgment does not specifically adjudicate rights of Pre-2001 appointees as a protected class.

(l) Directions under Article 142 cannot override statutory rights; reliefs granted by Supreme Court are

equitable and case specific. It is settled law that Article 142 directions cannot be treated as binding precedent on statutory interpretation.

(m) Acquired right to be governed by then existing qualifications, cannot be subjected to new qualification. (***PD Agarwal V/s. State of U.P. ,***) reported in ***(1987) 3 SCC 622*** and ***1987 AIR (SC) 1676.***

(n) State cannot take away accrued rights by subsequent amendments; such action violates Article 14. (***State of Gujrat V/s. Ramanlal Keshav Lala Soni S.L.,*** reported in ***S.L., (1984) AIR 161,*** and ***(1983) 2 SCC 33.***

(o) Vested rights cannot be taken away by subordinate legislation. Retrospective deprivation is impermissible. (***Chairman, Railway Board V/s. CR Rangadhamaiah,*** reported in ***1997 AIR SCW 3747*** and ***(1997) 6 SCC 623.***

(p) Where exemption exists, it must be meaningful and effective and not illusory. (*J C Yadav V/s. State of Haryana, 1990 AIR 857*) and *(1990) 2 SCC 189*.

(q) Existing teachers cannot be unduly prejudiced by later qualification norms. (*Shivaji Shikshan Prasarak Mandal V/s. State of Maharashtra*, reported in *AIR 2010 BOMBAY 39* and *(2009) 6 Bom CR 1 (FB)*).

5. The Petitioners point out their dates of joining employment, in a large ready reference Chart from Page Nos. 34 to 67, of the Petition paper-book. The said details are obtained from the Zilla Parishad, which has prepared these charts. All these Petitioners desire to become Headmasters/Headmistress (in short 'HM'), by promotion. All do not have either MTET or CTET.

6. Shri Pakale submits that the Court has crystallised the law that those who were appointed before 3rd September 2001, need not acquire the TET qualification, either for promotion or for continuation in service. He insists that the contents of paragraph 168 of the judgment is a conclusion of the Court, and not a mere

discussion. It is a final verdict on the issue that those appointed before 03.09.2001, are not required to pass the TET any time for any purpose. After 2 decades of service, the in-service candidates should not be mandated now to acquire the TET qualification for any purpose.

7. The answer to all contentions of the Shri Pakale lies in ***Anjuman Ishaat E Taleem Trust Vs. The State of Maharashtra & Ors.*** (Civil Appeal No. 1385 of 2025), delivered by the Hon'ble Supreme Court on 1st September, 2025. We are of the view that the above contention of Shri Pakale is on account of a complete misreading of paragraph 168, which has to be read in tandem with paragraph 169 and 170. For clarity, we are reproducing paragraph 168 here under :

“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.”

8. We have no doubt whatsoever, that the above paragraph is an expression of the Hon’ble Supreme Court on the language used in the NCET notification and Section 23 of the RTE Act. The issue of whether there is any ambiguity in the language used in the notification and the RTE Act, has been dealt with by the Court and it is just an observation on what is said in the notification and S. 23. The further paragraph nos.169 and 170, clearly indicate the view and conclusions of the Hon’ble Supreme Court.

9. In paragraph Nos. 169 and 170, the Hon’ble Supreme Court has considered the language of S. 23 of the R.T.E. as well as the Notification issued by the N.C.T.E., and has concluded as under :

“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.”

[Emphasis is supplied]

10. In the final concluding paragraph nos. 215, 216, 217 and 218, the Hon’ble Supreme Court has considered the position of the in-service candidates, appointed prior to the advent of the TET regime and those seeking promotion or fresh employment, and has held as under :

“215. However, we are mindful of the ground realities as well as the practical challenges. There are in-service teachers who were recruited much prior to the advent of the RTE Act and **who might have put in more than two or even three decades of service**. They have been imparting education to their students to the best of their ability without any serious complaint. It is not that the students who have been imparted education by the non-TET qualified teachers have not shone in life. To dislodge such teachers from service on the ground that they have not qualified the TET would seem to be a bit harsh although we are alive to the settled legal position that operation of a statute can never be seen as an evil.

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."

[Emphasis is supplied]

11. Therefore, the Hon'ble Supreme Court has finally ordered as under :

(a) Those in-service candidates who are recruited prior to the advent of the T.E.T. regime, with less than 5 years of service remaining, need not acquire the T.E.T. qualification, provided they would not be entitled for any promotion.

(b) Those in service candidates who have more than 5 years of service for retirement, shall acquire T.E.T. qualification within 2 years from the date of the Order of the Judgment, meaning thereby that such qualification shall be acquired on or before 1st September 2027, or shall have to face termination from service.

(c) Those candidates who seek promotion by appointment, shall acquire T.E.T. before their candidature can be considered for promotion.

(d) The above directions ever cover those in-service candidates who do not have T.E.T. and desire promotion, either through the promotional channel or through department examination for promotion, shall have to acquire

the T.E.T. qualification and only thereafter, their candidature could be considered.

12. In view of the above, we do not find that these Petitioners can canvass any ground against the dictum of the Hon'ble Supreme Court laid down in Anjuman Ishaat E Taleem Trust (supra). The vehement reliance of the learned Senior Advocate on paragraph 168 (reproduced herein above), is wholly misplaced in contending that those who have been appointed prior to 3rd September 2001, are exempted from acquiring TET and they can continue in employment for their entire remainder service and can also claim promotion, without the TET qualification.

13. In paragraph 168, the Hon'ble Supreme Court has dealt with the language of the RTE provisions and the NCTE Notification. The Hon'ble Supreme Court has concluded that there is no ambiguity in the said provisions. That is, however, not the conclusion of the Court that those who are appointed prior to 3rd September 2001, are permitted to be promoted without the T.E.T. qualifications even today. The only exception carved out in Anjuman Ishaat E Taleem Trust (supra) is that since the matter pertaining to the minority institutions has been referred to a larger Bench, the conclusions in

Anjuman Ishaat E Taleem Trust (supra), are not applicable to minority institutions, until the afore stated issue is decided. Per contra, candidates working in non-minority institutions, both prior to the advent of the T.E.T. regime or seeking fresh appointment on promotion, are mandated to have the T.E.T. qualification, if they desire promotion.

14. The M.T.E.T. is equivalent of C.T.E.T. This Court has taken a view in *Writ Petition No. 2993 of 2026* and group of matters (*Ajay Chokha Kate and Others vs. State Of Maharashtra and Others*), that the Petitioners are at liberty to acquire the T.E.T. qualifications and if they do so, they are at liberty to seek promotion provided they fulfill all eligibility criterion. This would mean, either MTET or CTET. And there is no dispute on this aspect, by the Respondent State or the State authorities.

15. In view of above, **this Petition is dismissed**. Rule is discharged.

16. The learned Senior Advocate prays that the Respondent should not make promotions to the posts of HM, for a period of four weeks. Considering our judgment dated 10th April, 2026 in *Ajay*

Chokha Kate and Others vs. State Of Maharashtra and Others (supra), such prayer cannot be accepted. The HMs are being recruited as a part of a continuous process, to ensure that Schools do not operate without an HM and do not remain headless. Such process, on the basis of the judgment of the Hon'ble Supreme Court, is on a proper path and no interference is required. No post of HM of a school can be kept vacant at the behest of candidates who are not TET qualified. Hence, the request is rejected.

[HITEN S. VENEGAVKAR, J]

[RAVINDRA V. GHUGE, J.]

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