



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5456 OF 2024

- 1) Rahul Vyayam Prasarak Mandal,
Bhumiputra Colony, through its Chairman,
Shri Jaykumar Abhyankar, Amravati.
- 2) Matoshree Jaywantabai Abhyankar
Primary Marathi School, Sainagar,
Paratwada, Distt. Amravati
through its Headmaster.
- 3) Ankush Ramdasrao Barode,
Aged about 32 years, Occ : Service,
R/o Chincholi, Tq. Anjangaon,
Distt. Amravati.

.... **PETITIONERS**

// **VERSUS** //

- 1) State of Maharashtra,
through Secretary, Department of
School Education, Mantralaya,
Mumbai.
- 2) Deputy Director of Secondary
Education, Amravati, Distt. Amravati.
- 3) Education Officer (Primary),
Zilla Parishad, Amravati.

.... **RESPONDENTS**

Mr. R. G. Kavimandan, Advocate for the Petitioners.
Ms. D. I. Charlewar, Assistant Government Pleader for
the Respondent Nos.1 and 2.
Mr. D. M. Kale, Advocate for the Respondent No.3.

**CORAM : SMT. M.S. JAWALKAR, AND
NANDESH S. DESHPANDE, JJ.**

DATE : 30th APRIL, 2026.

ORAL JUDGMENT : (Per : SMT. M.S. JAWALKAR, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.

3. Present petition is filed for direction to Respondent No.3 to grant approval to the appointment of the Petitioner No.3 and further for direction to pay the arrears of salary.

4. The Petitioner No.3 came to be appointed as 'Assistant Teacher' in Petitioner No.2 – School on 24.02.2014. As the Respondent No.3 refused to grant approval, the Petitioner No.3 filed a Writ Petition No. 311/2017 before this Court. The said writ petition was allowed by this Court and the Education Officer (Primary) was directed to grant approval to the appointment of the petitioner as 'Assistant Teacher', if he is otherwise qualified to hold the post.

5. It appears that the Education Officer vide its Communication dated 07.03.2018 though granted approval to the appointment of the Petitioner No.3, it was conditionally subject to passing TET Examination in three attempts. In spite of the fact that the Petitioner No.1 is the minority institution, there is a

Communication issued by the Deputy Director of Education, intimated to all the Education Officer, Divisional Officer, Education Inspector etc. that condition of TET will not apply for the time being in view of pending SLP in the Hon'ble Apex Court. It is also matter of fact that the Hon'ble Apex Court in ***Anjuman Ishaat-E-Taleem Trust vs. The State of Maharashtra & Ors., 2025 LiveLaw (SC) 861***, held as under :

“214. Per the detailed discussions above and resting on the same, we hold that the provisions of the RTE Act have to be complied with by all schools as defined in Section 2(n) of the RTE Act except the schools established and administered by the minority – whether religious or linguistic – till such time the reference is decided and subject to the answers to the questions formulated above under section VII. Logically, it would follow that in-service teachers (irrespective of the length of their service) would also be required to qualify the TET to continue in service.”

6. In view thereof, the condition imposed by the Education Officer is contrary to the direction issued by the Hon'ble Apex Court and also direction of this Court issued in Writ Petition No.311/2017. It is directed to grant approval if he is otherwise eligible, however, conditional approval was granted to clear the TET Examination in three attempts. As such the

impugned communication is liable to be quashed and set aside.

Accordingly, we proceed to pass the following order :

- (i) The writ petition is allowed.
- (ii) The impugned Communication dated 07.03.2018, issued by Respondent No. 3 – Education Officer (Primary), Zilla Parishad, Amravati is hereby quashed and set aside.
- (iii) The Respondent No. 3 – Education Officer (Primary), Zilla Parishad, Amravati shall issue a modified approval order and remove the condition of clearing TET Examination in three attempts. This exercise shall be carried out by the Respondent No.3 within a period of three weeks from the date of receipt of the order.

7. The writ petition stands disposed of in the above terms. No order as to costs.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)