



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 7824 OF 2025

1. Mohammad Shakir Abdul Hameed,
Aged: 41 Yrs, Occu: Service,
R/o- Mirza Nagar, Buldana,
Dist. Buldana.

... PETITIONER

...VERSUS...

1. State of Maharashtra,
Through Principal Secretary, School,
Education and Sports Department,
Mantralaya, Mumbai.
2. Education Officer (Primary),
Zilla Parishad, Buldana.
3. National Shikshan Bahuddeshiya
Sanstha, Mirza Nagar, Buldana,
Through it's Secretary.
4. National Urdu Prathmik and Uccha
Prathmik shala, Mirza Nagar,
Buldana, Through it's Headmaster.

...RESPONDENTS

Mr. S. B. Gandhe, Advocate for petitioner.
Mr. H. D. Futane, AGP for respondent no.1/State.
Mr. B. N.Jaipurkar, Advocate for respondent no.2.

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

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RESERVED ON : 15th APRIL, 2026.
PRONOUNCED ON : 04th MAY, 2026.

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

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

2. The present petition challenges communication / order dated 07.10.2025 passed by respondent No.2 – Education Officer (Primary), Zilla Parishad, Buldana, to the extent that it provides for non-granting of 20% additional salary to the petitioner.

3. The facts as can be stated from the petition are as under:

a) The petitioner, having completed his Bachelor of Arts and Bachelor of Education, was eligible to be appointed on the post of Graduate Teacher. On 29.07.2017, respondent No. 3 issued an advertisement to fill up the post of Graduate Assistant Teacher for Classes 5th to 7th. The petitioner, being eligible, applied for the said post and was appointed accordingly on 03.10.2017. Respondent

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No. 2 granted approval to the appointment of the petitioner on 06.10.2018.

b) Thereafter, on 09.08.2024, respondent No. 2 granted 20% aid to respondent No. 4 - school for Classes 5th to 7th. The said aid was granted to three teachers, amongst which the petitioner was one. In the backdrop of these facts, on 07.10.2025, respondent No. 2 issued the impugned communication, thereby increasing the grant-in-aid to respondent No. 4 school from 20% to 40%. However, vide Clause No. 16 of the said order, it refused to grant benefits of increased grant-in-aid to the petitioner. This has prompted the petitioner to approach this Court by filing the present petition.

4. We have heard Mr. S.B. Gandhe, learned counsel for the petitioner, Mr. H.D. Futane, learned AGP for the respondent No. 1/State, and Mr. B. N. Jaipurkar, learned counsel for the respondent No. 2.

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5. Mr. S.B. Gandhe, learned counsel for the petitioner, by taking us through the impugned order, submits that the same is clearly illegal and contrary to the provisions of the Act. He submits that respondent No. 2 has failed to appreciate the fact that respondent No. 3 is a Minority Education Institution approved by the competent authority and, therefore, the criteria for passing a teacher eligibility test by the employee is not applicable to the said institution. He, therefore, submits that refusing the benefits of enhanced grant-in-aid only for the said reason is contrary to the provisions as also the judgment of the Hon'ble Apex Court in the case of *Anjuman Ishaat-E-Taleem Trust Vs. The State of Maharashtra and Ors.*, reported in MANU/SC/1220/2025.

6. Per contra, learned counsel for the respondents submits that the order impugned is perfectly legal and valid and supports the same.

7. We have carefully perused the record and appreciated the contentions canvassed by the learned counsels for the respective parties. As can be seen from the facts, impugned communication

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dated 07.10.2025, the grant-in-aid was enhanced from 20% to 40%, but vide Clause No. 16 thereof, the said benefit was not made applicable to the petitioner. Admittedly, respondent No. 3 is a Minority Education Institution and has been recognized as such by the State Government vide certificate dated 22.07.2008. Thus, in view of the dictum of the Hon'ble Supreme Court in judgment referred supra, the action of respondent No. 2 is totally illegal, and in the said judgment, para 214 is reproduced 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.”

8. Thereafter, the State Government has also issued a circular stating that the Right to Education Act is not applicable to the

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Minority Education Institution in view of the judgment of the Hon'ble Supreme Court referred to supra. Thus, the clause refusing to pass on the benefit of the enhanced grant-in-aid to the petitioner is totally uncalled for in view of the said judgment. In that view of the matter, we pass the following order:

ORDER

i) Clause 16 of the impugned communication dated 07.10.2025 is quashed to the extent of the said clause.

ii) It is directed that the respondent No. 2 should grant benefits of increased grant-in-aid of 40% to the petitioner within two months from the date of this order.

9. Rule is made absolute in the aforesaid terms, and the Writ Petition is disposed of.

(NANDESH S. DESHPANDE, J.)

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

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