

[2026 LiveLaw \(SC\) 450](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

J.K. MAHESHWARI; J., ATUL S. CHANDURKAR; J.
SLP (Civil) No. 12210 OF 2023; April 30, 2026

UNION TERRITORY OF JAMMU AND KASHMIR AND ORS. versus SABA WANI

Constitution of India, 1950 - Article 14 – Equal Treatment and Arbitrary Classification – Pendency of litigation cannot be a valid basis for classification - Denying engagement orders to candidates simply because litigation was pending against them as on the date of the closure of a government scheme, while issuing engagement orders to similarly situated candidates with no pending litigation, fails the twin-test of reasonable classification - Mere pendency of litigation is an extraneous circumstance and bears no rational nexus with the objective of maintaining educational standards.

Article 21-A & Article 142 – Right to Education vs. Complete Justice – The constitutional guarantee to provide education includes within its ambit the right to quality education - While invoking plenary powers under Article 142 to balance equities and accommodate merit-holders , the mandate of Article 21-A cannot be compromised - the state is at liberty to dispense with the services of teachers who fail to acquire mandatory minimum statutory qualifications within the prescribed grace period.

Right of Children to Free and Compulsory Education Act, 2009 - Section 23 – Minimum Qualifications for Teachers – Clearing the Teachers' Eligibility Test (TET) is not a mere procedural requirement but an essential component of the mandatory minimum eligibility criteria for any teacher appointment - Both new entrants and in-service teachers who do not possess the requisite NCTE qualifications must clear the TET within a time-bound manner as a pre-condition for regularization, continuation, or future promotion. [Relied on *Anjuman Ishaat-E-Taleem Trust v. The State of Maharashtra & Ors.*, 2025 INSC 1063; Paras 18-25]

WITH CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 24947 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 24945 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25679 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 24948 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 24946 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 2721 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 24944 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25680 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25681 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25682 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25683 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25678 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25684 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25685 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25686 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 25688 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 28390 OF 2023) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 2720 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 2123 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 5221 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 6890 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 8694 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 20813 OF 2024) CIVIL APPEAL NO. OF 2026(ARISING OUT OF SLP (CIVIL) NO. 18678 OF 2025) CIVIL APPEAL NO. OF 2026 (ARISING OUT OF SLP (CIVIL) NO. OF 2026) (@ DIARY NO. 21444 OF 2025) CIVIL APPEAL NO. OF 2026 (ARISING OUT OF SLP (CIVIL) NO. OF 2026) (@ DIARY NO. 26922 OF 2025) CIVIL APPEAL NO. OF 2026 (ARISING OUT OF SLP (CIVIL) NO. OF 2026) (@

DIARY NO. 21440 OF 2025) AND CIVIL APPEAL NO. OF 2026 (ARISING OUT OF SLP (CIVIL) NO. OF 2026) (@ DIARY NO. 21437 OF 2025)

For Petitioner(s) : Mr. Balwant Singh Billowira, Adv. Ms. Kaninika Majumder, Adv. Ms. Arpita Mishra, Adv. Ms. Shilpa Singh, AOR Mr. K.M. Nataraj, A.S.G. Mr. Parth Awasthi, Adv. Mr. Pashupathi Nath Razdan, AOR Ms. Maitreyee Jagat Joshi, Adv. Mr. Astik Gupta, Adv. Ms. Akanksha Tomar, Adv. Mr. Vinayak Sharma, Adv. Mr. Chitransh Sharma, Adv. Ms. Simran Sharma, Adv. Ms. Deepika Gupta, Adv. Mr. Shravan Bagora, Adv. Mr. Salman Khurshid, Sr. Adv. Mr. M.R. Shamshad, Sr. Adv. Mr. Shoeb Alam, Sr. Adv. Ms. Nagma Imtiaz, Adv. Mr. Sangham Ahmed, Adv. Mr. Saif Naseem, Adv. Mr. Dev Saran, Adv. Mr. Arijit Sarkar, Adv. Ms. Shama Usmani, Adv. Ms. Jyoti Singh, dv. M/S. Equity Lex Associates, AOR Mr. Aseem Kumar Katoch, Adv. Mr. Ajit Kumar Ekka, AOR.

For Respondent(s) : Ms. Sanjana Saddy , AOR Mr. Sanyat Lodha, Adv. Mr. Shakeel Sarwar Wani, Adv. Mr. Naresh Kaushik, Sr. Adv. Mr. Vardhman Kaushik, AOR Mr. Nishant Gautam, Adv. Mr. Manoj Joshi, Adv. Mr. Dhruv Joshi, Adv. Ms. Shikha John, Adv. Mr. Anand Singh, Adv. Mr. Arindam Sarin, Adv. Mrs. P S Vijayadharni, Adv. Mr. Sanjeev Saxena, Adv. Ms. Priya Nair, Adv. Mr. Mahfooz Ahsan Nazki, AOR Mr. Manik Mahey, Adv. Mr. Vivek Rajan D.b, Adv. Mr. Vivek Rajan D.b., Adv. Ms. Nazarat Fatima, Adv. Ms. Syed Nazarat Fatima, Adv. Mr. Tripurari Ray, Adv. Mr. Balwant Singh Billowira, Adv. Mr. Akshay Singh, Adv. Mr. Vivekanand Singh, Adv. Ms. Arpita Mishra, Adv. Ms. Kaninika Majumder, Adv. Mr. Manu Shanker Mishra, AOR Mr. Pashupathi Nath Razdan, AOR Mr. Aseem Kumar Katoch, Adv. Mr. Ajit Kumar Ekka, AOR Mr. Siddharth Jain, AOR Mr. Muzaffar Iqbal Khan, Adv. Mr. Dhanaeswar Gudapalli, Adv. Mr. Satyeyu Veer, Adv. Mr. Bamandla Venkatesh, Adv. Mr. D. Mahesh Babu, AOR Mr. Aseem Kumar Katoch, Adv. Mr. Ajit Kumar Ekka, AOR.

J U D G M E N T

J.K. MAHESHWARI, J.

1. Delay condoned.

2. Leave granted.

3. The present batch of appeals involves a common question of law, therefore, they are being disposed of by way of this common judgement. Except for appeals arising out of Special Leave Petition (Civil) Nos. 25683/2023, 25684/2023, 25685/2023, 25686/2023, 2720/2024 and 5221/2024, all other appeals have been preferred assailing the common judgment dated 04.02.2023 passed by the High Court of Jammu & Kashmir and Ladakh at Srinagar (*hereinafter, 'High Court'*) in SWP No. 3801 of 2019 and connected matters. As far as appeals arising out of Special Leave Petition (Civil) Nos. 25683/2023, 25684/2023, 25685/2023, 25686/2023, 2720/2024 and 5221/2024 are concerned, they have been preferred against the orders dated 06.02.2023 in SWP No. 2467 of 2018, 27.02.2023 in WP (C) No. 393 of 2021, 10.03.2023 in WP (C) No. 944 of 2020, 12.05.2023 in WP (C) No. 819 of 2020, 06.02.2023 in WP (C) No. 3658 of 2019 and 06.02.2023 in SWP No. 108 of 2019, wherein the judgement passed in SWP No. 3801 of 2019 has been relied upon by the High Court while disposing of the respective petitions. Accordingly, for the sake of brevity, any reference to the impugned order hereinafter shall be understood as a reference to the judgment passed in SWP No. 3801 of 2019, unless the context otherwise requires.

4. Shorn of unnecessary details, various Writ Petitions were filed before the High Court whereby it was prayed to quash Government Order No. 919-Edu of 2018 dated 16.11.2018 (*hereinafter, 'Closure Order'*) by which the State Government formally closed the Rehbar-e-Taleem scheme (*hereinafter, 'ReT'*) and also announced cancellation/withdrawal of all advertisement notices issued for engagement of ReTs or panels prepared, where no engagement orders had been issued. The said challenge was primarily premised on the ground that placement of candidates in select panel, that had not been acted upon, was being nullified by the closure order taking away the rights vested consequent to the placement of their names in selection panel. Since such candidates

were restricted from their engagement because of closure order of ReTs and due to pending litigation.

5. The High Court, while upholding the constitutionality of the Closure Order, carved out certain exceptions. The relevant paragraph of the impugned order is reproduced hereunder for ready reference –

“31. We have heard both the sides at some length on the impact of the Government order on the pending litigation and we cull out our conclusion as under:

- (i) That the impugned Government order will not affect the select panels prepared by the respondents which have been acted upon and formal orders of engagement have been issued;*
- (ii) That the impugned Government Order will not override or effect the judgments passed or to be passed by this Court holding a candidate/candidates entitled to engagement in the selection process which was/is under challenge before the Court;*
- (iii) Where the select panels are approved and the aggrieved party has approached the Court before it could be acted upon, shall also be not affected by the impugned*

Government order, in that, but for litigation in the Court, the approved panel/panels could have been acted upon and formal letters of engagement in favour of the selected candidates issued prior to the issuance of the impugned Government order; and,

- (iv) Notwithstanding issuance of the impugned Government order, the respondents shall abide by the judgments passed by any competent Court of law which have attained finality. However, the writ petitions involving adjudication of disputes in respect of tentative merit lists or tentative select panels shall be liable to be dismissed in view of the impugned Government order, in that, it would not be permissible for a Court of law to direct the respondents to finalize the tentative merit lists or tentative select panels and issue engagement orders in view of closure of the scheme and a clear stipulation contained in paragraph 2nd of the impugned Government order.*

32. In view of the discussion made and the reasons given above, challenge to the constitutionality of the impugned Government Order fails and consequently, all the petitions are disposed of by providing that the impugned Government order shall be understood and made applicable in the manner explained hereinabove in the judgment.”

6. Assailing the afore-mentioned findings of the High Court, respective appeals have been filed by the State Government/Administration (*hereinafter*, ‘State’) as well as some private parties who were seeking appointment under the ReT scheme. The State has challenged the findings contained in paragraph 31 of the impugned judgement, in particular, subparagraph (ii) and (iii) and the candidates were aggrieved by the findings insofar as the Closure Order has been upheld by the impugned order.

7. At the outset, it is to be noted that ReT Scheme was launched by the Education Department of then State of Jammu and Kashmir *vide* Order No. 396 of Edu of 2000 dated 28.04.2000. This scheme was envisaged as a response to the acute shortage of teaching staff at the elementary level, particularly in underserved and remote areas. Under this scheme, local individuals had to be engaged as teachers to bridge infrastructural and human resource gaps, primarily in elementary education. Its central objective was to ensure accessible, accountable, and quality education by fostering a direct linkage between the school and the community by providing ‘*constant interface and interaction with the community to secure universal enrollment and to check the hindrance of dropouts*’ especially in areas of Jammu and Kashmir where educational facilities were scarce. Later on, *vide* G.O. No. 170Edu of 2003 dated 24.11.2003 it was notified that the procedure for recruitment as prescribed in ReT scheme was to be followed for filling up of posts created under *Sarv Siksha Abhiyan*. *Vide* G.O. No. 635-Edu of 2010 it was further stipulated that

regular vacancies created in Socially and Educationally Backward areas and in areas near the Line of Actual Control were to be filled as per ReT scheme.

8. Nonetheless, *vide* G.O. No. 919-Edu of 2018 dated 16.11.2018, the Closure Order was issued by the Education Department and the ReT scheme was formally closed. The said G.O. is reproduced for ready reference –

**“GOVERNMENT OF JAMMU AND KASHMIR EDUCATION DEPARTMENT
CIVIL SECRETARIAT, JAMMU**

Subject: Formal closure of Rehbar-e-Taleem scheme and cancellation/withdrawal of all advertisement notices issues for engagement of ReTs or panels prepared where no engagement orders have been issues under Rehbar-e-Taleem Scheme.

Ref: State Administrative Council Decision No. 129/ 19/2018 dated 14.11.2018. Government Order No: 919-Edu of 2018 Dated: 16-11-2018

Sanction is hereby accorded that: -

i) Formal closure of the ReT Scheme and the ReT recruitment/engagement process notified vide Government Order No. 396-Edu of 2000 dated 28.4.2000 along with subsequent modifications/amendments. However, the existing Rest already appointed under the scheme or on ReT pattern shall continue to be governed under the erstwhile scheme till their regularization or otherwise;

ii) All advertisement notices for engagement of Rehbar-e-Taleem Teachers or panels prepared where no engagement orders have been issues (sic) shall and shall always be deemed to have been cancelled/withdrawn as ab-initio;

iii) No fresh advertisement for recruitment/engagement under any ReT Scheme(s) shall henceforth be issued.

By order of Government of Jammu and Kashmir.”

The said Closure Order has been upheld by the High Court in the impugned order, *albeit*, after reading it down as indicated in preceding paragraphs. It is in this backdrop that the present appeals have been preferred.

9. When this matter came for adjudication before this Court, notice was issued *vide* order dated 09.06.2023 while staying the operation of the impugned order and also with a direction that appointments already affected shall not be disturbed till disposal. After completing service of notice upon the Respondents, this matter was listed on 01.04.2025 whereby this Court directed the parties to complete pleadings and to file a compilation containing all the relevant documents.

10. As noted in this Court's order dated 25.11.2025, during the course of hearing, Mr. K.M. Natraj, learned ASG appearing for the State, contended that following the enactment of the Right of Children to Free and Compulsory Education Act, 2009 (*hereinafter*, 'RTE Act') and the promulgation of relevant regulations, appointments under the ReT Scheme can no longer survive. He argued that the qualifications prescribed under the ReT Scheme fall short of the statutory stipulations mandated by the RTE Act and the regulations framed thereunder, rendering further appointments under the ReT scheme legally impermissible. In light of these submissions, the State was directed to furnish the specific information detailed in paragraphs 4, 5, and 6 of the aforementioned order, which are reproduced below for ready reference –

“4) In the said sequel of facts, it is required to be explained that at the time of introducing the ReT scheme in the year 2000, what were the Rules for recruitment of teachers in primary and

middle schools were (sic) prevalent prescribing the qualifications, other than as prescribed in the ReT Scheme.

5) At the time of abolition of the said Scheme applying the mandate of Right to Education Act and regulations of NCTE, the State Government formulated the Rules/amended Rules/formulated some guidelines for appointment of the teachers introducing the qualification as prescribed by NCTE. It be also specified that applying those guidelines, the teachers who were being appointed under the ReT scheme shall now be recruited under those rules/ regulations/scheme.

6) All the facts be clarified by filing affidavit by the Union Territory of Jammu and Kashmir within a period of four weeks. Private parties are also at liberty to bring documents by filing explaining all the aforesaid queries.”

11. Apropos the order, State filed affidavit dated 10.01.2026 whereby it was clarified that at the time of introduction of the ReT Scheme, the recruitment of teachers in primary and middle school was being governed by J&K Education Department (Subordinate) Service Recruitment Rules, 1979 and, after closure of the ReT Scheme, RTE Act and regulations framed by the National Council for Teacher Education (*hereinafter*, ‘NCTE’) came into force in the territory of Jammu & Kashmir on 31.10.2019 and that final recruitment rules are yet to be finalized in terms of applicable regulations.

12. On the other hand, it was contended by the learned senior counsel for the candidates that several individuals have already been appointed from the very select panels forming the subject matter of the present litigation, therefore, it becomes imperative to consider the claims of the candidates before this Court through the lens of parity, equal treatment and to grant at par benefits. In this view, to be able to adjudicate the dispute comprehensively, we sought further clarifications from the State *vide* order dated 13.01.2026, relevant portion of which is reproduced as thus –

“1. We have heard Mr. K.M. Natraj, learned Additional Solicitor General for some time. After hearing and on perusal of the Notification Policy dated 16.11.2018 in particular Clauses (ii) and (iii) thereof and the directions as issued by the High Court, however, to analyze the issue in right earnest, it is necessary that in furtherance to a policy decision, it is to be clarified that :

(i) How many selections in furtherance to the advertisement which is under challenge before the High Court are governed by Clause (i) of the policy?

(ii) How many advertisements and the select panels which are under challenge are governed by Clause (ii)?

(iii) In reference to question No. (ii) above, it be explained that out of those select panels, how many persons have been appointed by the State Government implementing the said select list in part and how many still to be appointed to which the judgment may or may not be applicable in the facts of the case.

(iv) It be explained that what was the purpose behind notifying clauses (ii) and (iii) of the Policy dated 16.11.2018 as referred in the counter affidavit filed before the High Court and the grounds taken in this special leave petitions.

(v) While explaining the aforesaid, it be explained in the affidavit that at the time of issuance of the policy dated 16.11.2018, what was the stage of process of selection in furtherance to the individual advertisements.

2. All the said relevant documents are necessary. They be filed by way of additional affidavit of the competent officer not below the rank of the Secretary. The learned State counsel shall file the case wise details of the facts, pending selection list and the persons appointed for assistance of this Court on the next date of listing.”

13. In pursuance of the above-quoted order, the State filed the affidavit dated 02.02.2026. Nonetheless, upon perusal, we were of the opinion that the affidavit so filed did not answer the queries of this Court sufficiently. Therefore, *vide* the order dated 03.02.2026, by way of last indulgence, we permitted the State to file additional affidavit explaining all the queries as raised in order dated 13.01.2026. Pursuant thereto, an additional affidavit dated 23.02.2026 was filed by the State detailing all the information as was sought by this Court.

14. With respect to the query no. (i) regarding the number of appointments made under the advertisements that are subject matter of present appeals, it was submitted that in total, 39,585 ReT teachers were appointed in between 2002 and 2018. Moreover, it was stated that in respect of the advertisements that are subject matter of the present batch of Appeals, 1538 persons were appointed. It was also explained that select panels in which an objection was raised and the litigation was pending in respect of any of the selected candidates, no engagement could be made till issuance of Closure Order, which were to be governed by directions contained in the impugned judgement. Regarding query no. (ii), following was stated in tabulated manner –

| Total no. of advertisements involved in these 30 SLPs | Total no. of Select Panels formed in 74 advertisements involved in these 30 SLPs | How many of these advertisements and select panels are governed by clause (ii) of the policy i.e., where no engagement orders were issued prior to 16.11.2018 | Total no. of candidate who have to be appointed if direction (ii) of Para 31 of the impugned judgement is applied |
|---|--|---|---|
| 74 | 1679 | 783 Select Panels are governed by Clause (ii) of the policy | 783 |

In the above table, column no. 3 indicates 783 select panels that have to be governed by clause (ii) of the Closure Order while column 4 indicates 783 candidates have to be appointed as per the impugned judgement. There appears to be some clerical discrepancy. Accordingly, Column 3 has to be read as indicating the number of candidates who found place in the select panels and are liable to be governed by clause (ii) of the policy as well as para 31 of the impugned judgment.

15. With respect to query no. (iii), it was stated that total 2349 posts were advertised in 74 advertisements which are involved in the present Appeals and total 1679 candidates were in select panels. Out of those, it was stated that 1538 candidates were appointed. As far as reasons for selecting some of the candidates and not selecting others, it was reiterated that panels where no objection was raised with respect to selection of the candidate, said panels were culminated by issuance of necessary engagement orders and in cases where some dispute or litigation was pending, the select panels could not be brought to their logical ends before issuance of the Closure Order. It was also stated that no appointment whatsoever has been made under the ReT Scheme after the Closure Order.

16. As far as query no. (iv) is concerned, following reasons were stated for notifying clause (ii) and (iii) of the Closure Order –

“I state that the information sought by this Hon’ble Court in point no. iv w.r.t to the purpose behind incorporating point no. (ii) and (iii) of the policy i.e. withdrawal of all advertisements and panels

ab initio, where no engagement orders were issued till 16.11.2028 and no fresh advertisement for engagement under any ReT scheme will be issued henceforth is that:

(i) *pursuant to revocation of the Scheme all the posts advertised prior to 16.11.2018 which remained vacant have withdrawn as a natural corollary of the withdrawal of the scheme and hence no engagement could be made without posts and as such, incorporation of point no. (i) in Govt. Order dated 16.11.2018 was inevitable.*

(ii) *I state that the reason behind insertion of clause (iii). of the policy was that the Scheme for ReT was revoked and hence no post or vacancy of ReT existed in Jammu and Kashmir and such no further advertisement for recruitment/ engagement under the ReT Scheme(s) could have been issued.”*

17. With regard for query no. (v), it was explained that with respect to some of the advertisement no appointment was made at all, while in others, appointments were made prior to the issuance of the Closure Order where no dispute or litigation was already pending. Said information is tabulated for brevity as follows –

| Category | SLP (Civil) Nos. |
|---|---|
| No appointment made at all | 12210 of 2023; 24947 of 2023; 24945 of 2023; 25689 of 2023; 24948 of 2023; 24946 of 2023; 2721 of 2024; 24944 of 2023; 25680 of 2023; 25681 of 2023; 25682 of 2023; 28390 of 2023; 25684 of 2023; 25686 of 2023; 2720 of 2024; 2123 of 2024; 5221 of 2024; 6890 of 2024; 20813 of 2023; Diary No. 26934 of 2025; Diary No. 26922 of 2025; Diary No. 21444 of 2025; Diary No. 21440 of 2025 and Diary No. 2137 of 2025 |
| Appointments made only prior to the issuance of the Closure Order where no dispute or litigation was already pending. | 25683 of 2023; 25678 of 2023; 25685 of 2023; 25688 of 2023 and 8694 of 2024 |

As far as stage of selection process at the time of issuance of Closure Order with respect to the advertisements involved in each appeal is concerned, information contained in the following table was brought on record –

| Stage of Selection Process | SLP (Civil) Nos. |
|--|---|
| Tentative Selection List Issued | 12210 of 2023; 2721 of 2024; 25680 of 2023; Diary No. 26934 of 2025; Diary No. 26922 of 2025 and Diary No. 21440 of 2025; |
| Master Panel prepared but not approved | 24947 of 2023; 25679 of 2023; 24948 of 2023; 24946 of 2023; 28390 of 2023; 25684 of 2023; 2720 of 2024; 5221 of 2024; 20813 of 2023; Diary No. 21444 of 2025 and Diary No. 2137 of 2025 |
| Empanelment Stage | 24945 of 2023 |
| Master Panel but no Tentative Selection list (Or, only Master Panel stage) | 24944 of 2023; 25681 of 2023; 25682 of 2023; 25683 of 2023; 25678 of 2023; 25685 of 2023; 25686 of 2023; 25688 of 2023; 2123 of 2024; 6890 of 2024; 8694 of 2024 and 26477 of 2024 |

Further, various stages of the selection process under the ReT Scheme were also explained, which are: (i) Identification of posts; (ii) Advertisement; (iii) Receiving applications; (iv) Scrutiny of applications; (v) Empanelment of eligible candidates; (vi) Preparation of master panel for issuance of tentative selection list; (vii) Publication of

tentative selection list and subsequent approval by Directorate; and (viii) Issuance of engagement orders.

18. Upon perusal of the additional affidavit dated 23.02.2026, as explained hereinabove, we are of the view that that the sole ground for non-issuance of engagement orders to the candidates before this Court is that certain litigation was pending with respect to those candidates as on the date of issuance of the Closure Order. This classification, *prima facie*, fails when tested on the anvil of Article 14 of the Constitution of India. It is a wellsettled proposition of law, endorsed repeatedly by this Court, that any classification made by the State must satisfy the twin-test *first*, that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group; *second*, that such differentia must have a rational nexus with the object sought to be achieved by the legislation or executive action in question.¹ The object and purpose of the Closure Order, as stated by the State/Administration themselves in paragraph 3 of the additional affidavit dated 23.02.2026, is to address and remedy the menace of fake mark-sheets, fabricated degrees, and forged documents, which had led to a deterioration in the standard of education. This being the object of the Closure Order, the classification sought to be created between - (i) candidates against whom no litigation was pending as on the date of the Closure Order, who have been issued engagement orders; and (ii) candidates against whom litigation happened to be pending as on the date of the Closure Order, who have been denied engagement orders, bears no rational nexus whatsoever with the said object. Mere pendency of litigation concerning a candidate is an extraneous circumstance and cannot, by any stretch of imagination, be made a basis for such classification.

19. Notwithstanding the view as expressed above, we are also of the opinion that after introduction of the RTE Act, minimum qualifications as prescribed by the NCTE from time to time in pursuance to Section 23 of the RTE Act has to be conformed to in matter of appointment of new teachers as well as those who have already been appointed. The order dated 24.02.2026 is germane in this regard, therefore, reproduced as thus –

“1) Having heard learned counsel appearing on the behalf of the parties at length and on perusal of our order dated 13.01.2026 as well as the additional affidavit filed by the State Government in pursuance thereto, we are of the opinion that the qualifications prescribed by the National Council for Teacher Education (NCTE) in terms of Section 23 of the Right to Education Act, 2009 may be treated to be the minimum qualification for the purpose of accommodation of the private respondents/petitioners (as the case may be) as new entrants and the persons who have already been appointed without such mandatory qualifications and yet not regularized must obtain the same for the purpose of regularization/absorption and further promotion.

2) It is also apparent from the additional affidavit filed by the State Government that the recruitments as per the Rehbar-e Taleem (ReT) Scheme, 2000 which are under challenge before us range from 2008 to 2015 and in the said process master panels have been prepared and tentative selection lists have been issued which have not been approved or finalized. The order of closure/withdrawal of the ReT scheme is subsequent i.e. on 16.11.2018.

3) In such a factual backdrop, a harmonized approach ought to be adopted. Therefore, learned Senior Counsel representing the State shall submit a proposal after taking suggestions from the private parties who succeeded before the High Court and place a tentative proposal for consideration before this Court on or before 16th March, 2026.

4) List the cases for further orders on 18.03.2026.

¹ State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75 (para 85); Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 (para 187, 248 & 408)

5) *The matters will taken up on priority on the said date.”*

(emphasis supplied)

20. This view was necessitated especially in light of a recent judgement of this Court in *Anjuman Ishaat-E-Taleem Trust v. The State of Maharashtra & Ors.*² whereby this Court, after analyzing the statutory framework of the RTE Act and extant regulations, was of the view that only upon possessing the minimum qualification as prescribed by the NCTE under Section 23 of RTE Act, that includes clearing the Teachers' Eligibility Test (*hereinafter, 'TET'*), a person can become eligible for appointment as a teacher. Moreover, this Court was also of the view that in case in-service teachers are not possessing such minimum qualification, as a pre-condition for future promotional avenues, an opportunity may be granted to them to attain such minimum qualification in a time-bound manner. Relevant paragraphs of the said decision is reproduced as thus –

“166. In exercise of its authority under Section 23(1), the NCTE issued a Notification dated 23rd August, 2010, later amended by Notification dated 29th July, 2011, laying down that passing the TET is a mandatory condition for appointment of teachers in classes I to VIII in schools covered by Section 2(n) of the RTE Act. The notifications clarify that the TET must be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE. The legal position emerging therefrom is clear: the TET is not a mere procedural requirement but forms an essential part of the minimum qualification criteria.

167. Importantly, the first and second provisos to Section 23(2) of the RTE Act carve out a transitional obligation for in-service teachers who did not possess the minimum qualifications at the time of commencement of the RTE Act. They were required to acquire such qualifications including passing the TET within a prescribed time frame. The second proviso introduced by the Right of Children to Free and Compulsory Education (Amendment) Act, 2017⁸⁰ extended this compliance period by a period of four years from the date of commencement of the 2017 Amendment Act, which was deemed to have come into force on 1st April, 2015, i.e., till 2019 and not 2021 if four years were calculated from the date of the notification (i.e., 9th August, 2017). The express legislative intent was to bring all in-service teachers within the ambit of uniform quality standards.

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.

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 supplied)

² 2025 INSC 1063

21. Consequently, pursuant to the order dated 24.02.2026, on the next date of hearing i.e., 20.04.2026, learned ASG submitted a proposal across the board to us, which is reproduced as thus –

“1. Out of the cases pending before this Hon’ble Court, in cases where the Select Panels are approved but the final appointment order is yet to be issued, the said CASES WILL NOT BE AFFECTED BY CLOSURE OF THE ReT SCHEME and persons will, subject to the outcome of any pending litigation and the rights/eligibility determined thereunder, be appointed within a period of 3 months. In cases where there is no litigation, similarly placed persons will be appointed within a period of 3 months.

2) The cases falling under situation 1 above which are the subject matter of litigation before any judicial forum, will be extended the same benefit as above, however, the same shall be subject to the outcome of the litigation and the rights/eligibility determined thereunder.

3) The persons appointed at this stage in terms of 1 and 2, may be appointed as ReT from the date of judgment passed by the Hon’ble Court in relaxation of scheme/rules subject however to such persons acquiring the minimum qualification prescribed under the RTE Act including clearing Teachers Eligibility Test (TET), within 2 years from the date of such appointment and within 2 attempts.

[Please see:

a) Section 23 of the RTE Act,

b) NCTE Notification dated 23.08.2010 & 29.07.2011 under Section 23(1)

c) Paras 166-169, 197-201, 204, 206, 214, 217-218 of the Judgement of this Hon’ble Court in Civil Appeal No. 1385/2025 titled Anjuman Ishaat-E-Taleem Trust Vs. The State of Maharashtra & Ors. dated 01.09.2025]

4. UPON CLEARING TET, the concerned candidates will be confirmed in their respective posts. Seniority and other consequential benefits will be reckoned from the date of appointment and not from date of such confirmation of such candidates. (Actually, in terms of the ReT scheme the concerned candidates would be regularized after 5 years, however, in terms of the present proposal, the regularization benefit will be given upon clearing TET within a period of 2 years.)

5. Persons who are in service, appointed under the scheme on or after 23.08.2010 i.e., the date of the NCTE’s Notification whereby clearing TET has been prescribed as the minimum eligibility criteria for Teachers should clear the TET within a period of 2 years and within 2 attempts. The confirmation, promotion and continuation of all persons appointed as teachers under the scheme shall be subject to such persons clearing the TET within the period stipulated above and satisfying other conditions specified above.

6. In case, persons to be appointed as well as those already in service, fail to clear the mandatory TET within 2 attempts/2 years (for persons appointed – 2 years from the date of appointment and for persons in service – 2 years from date this proposal comes into force), their appointment automatically stands terminated. Upon such termination, the post automatically gets extinguished which means the post would be co-terminus with the termination of candidate.

7. The Hon’ble Court is requested not to allow any impleadment or intervention application in the instant matter, at this culminating stage of the case, in order to maintain fairness and defeat any mischievous attempt to dislodge the finality of the case. However, any applicant if eligible, may approach the competent authority/court of competent jurisdiction, subject to fulfilment of limitation, to justify his/her claim.”

22. In the said context, the counsels representing the other side i.e., the Candidates, also made certain suggestions which are (a) the term ‘approved’ used in paragraph 1 of the proposal be read as ‘prepared’ to avoid any further litigation; (b) since the TET exam is not being conducted regularly by the State every year, ‘2 years – 2 attempts’ condition

as contained in paragraph 3 of the proposal be modified, taking a liberal approach; (c) seniority of all such candidates who subsequently attain the minimum qualification may be reckoned from the date of preparation of respective panels instead of date of appointment as contained in paragraph 4 of the proposal.

23. Having heard the learned counsels for both the sides and upon perusal of the proposal as submitted by the learned ASG as well as suggestions of the learned Senior Counsels representing the Candidates, we are of the opinion that the above-mentioned proposal seeks to accommodate merit-holders who were not engaged due to stay orders or pending litigation on the date of the Closure Order, provided that they subsequently meet the minimum qualifications prescribed by NCTE pursuant to Section 23 of the RTE Act. This pragmatic approach adopted by the State is appreciable, particularly given its obligation to act with utmost fairness in matters of appointment. As such, in order to balance the equities and to render complete justice in the present batch of Appeals, we are of the view that this is a fit case to invoke our plenary powers enshrined under Article 142 of the Constitution of India. It is so because the result of present batch of Appeals would not only determine the fate of the Candidates who are before us, but it shall also entail consequences *vis-a-vis* realization of the Constitutional guarantee of right to education, which includes within its ambit the right to quality education, under Article 21-A of the Constitution of India.

24. It is however suffice to mention that if the Teacher appointed, though under the scheme dispensing education, they ought to be given due remuneration. However, during the course of arguments, it was pointed out that the remuneration presently offered i.e., Rs. 3,000/- is too less, particularly in these days when the minimum wages are higher than this. It is hoped and trusted that the State Government shall realize the aforesaid situation, and for dispensation of quality education, they shall take a decision on their discretion for enhancing the honorarium.

25. In this view of the matter, we deem it appropriate to issue following directions –

(a) The Closure Order of ReT Scheme dated 16.11.2018 for cancellation/withdrawal shall not retrospectively impair the right of the candidates found placed in the select panel. In view of the discussion made hereinabove, the candidates placed in respective select panels shall be issued engagement/appointment orders as per their position in the select panel having regard to the available vacancies.

(b) The State shall issue the formal engagement orders to the candidates of select panel within a period of eight weeks in terms of the direction (a) above.

(c) Candidates appointed as per directions (a) and (b) from the select panel under the ReT Scheme are directed to acquire minimum qualification prescribed under NCTE Regulations and Notifications, including to qualify the TET, within 3 years and 3 attempts from date of their engagement/ appointment. In this regard, the State is directed to organize the TET annually. After successfully acquiring the minimum qualification and passing TET within prescribed time limit, the services of such appointees shall be, accordingly, regularized on completion of two years of service thereafter.

(d) The direction (c) above shall be applicable to the other similarly situated candidates who have already been appointed from the select panels under the ReT Scheme after 23.08.2010 i.e., the date of NCTE notification prescribing minimum qualifications and prior to the issuance of Closure Order, and do not possess minimum qualification including TET as per the notification of NCTE. However, those appointees shall acquire prescribed qualification within the time as specified in direction (c).

(e) It is obligatory upon this Court to direct that once the candidates/appointees under the ReT Scheme have acquired the prescribed qualifications and qualified the TET as indicated above, the seniority of all such candidates/ appointees shall be redrawn and determined by the competent authority of the State, maintaining their respective positions in the select panels uninfluenced by the date of appointment, joining or regularization. The *inter se* seniority shall also be determined accordingly.

(f) It is further directed that if the candidates/appointees including those already appointed and regularized who do not acquire/possess the requisite qualifications in terms of the NCTE notifications and fail to qualify the TET within the period prescribed hereinabove, the State is at liberty to dispense with their services as the mandate of Article 21-A of the Constitution of India cannot be left at altar even while rendering complete justice invoking Article 142 of the Constitution of India. It is further clarified that those candidates/appointees would not have any claim with respect to seniority or regularization as directed hereinabove.

(g) The directions issued hereinabove are *in rem* and shall apply *mutatis mutandis* to the candidates already appointed pursuant to 74 advertisements that are subject matter of present proceedings, though they are not party to the present appeals. In view thereof, this judgment shall be widely publicized, and all the candidates/appointees shall be duly informed of these directions so that they can take recourse for acquiring the minimum qualification as per NCTE Regulations and Notifications, if they have not already acquired the same.

(h) The directions contained in clauses (a) to (g) hereinabove shall apply to all the candidates who are litigating in any Court and such cases have been filed prior to the date of this judgement. It is further clarified that candidates who have not already filed cases in any Court shall neither acquire any fresh cause of action by virtue of these directions nor be entitled to seek any further directions from any Court in that regard.

(i) At the cost of repetition, it is clarified that this judgment shall not be construed as reviving the ReT Scheme for any purpose whatsoever, nor shall it be interpreted so as to create or confer any right upon candidates who were not part of a prepared select panel or who failed to approach the Court timely. Moreover, these directions are being issued in the peculiar facts and circumstances of this case invoking the power under Article 142 of the Constitution of India and it shall not be treated as precedent in any manner whatsoever.

(j) In view of the observations made in para 24 above, we believe that the State Government shall apply their mind to the facts and circumstances of the case and the situation prevalent in the State and to take an appropriate decision with respect to the revision of the honorarium of such teachers as they deem fit.

26. Consequent to the above directions, the impugned judgment of the High Court stands modified to the extent indicated in paragraph 25 hereinabove. All pending applications, including applications for impleadment and intervention, shall stand disposed of. There shall be no order as to costs.