



2026:AHC:206055

AFR
RESERVED

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 14346 of 2026

Prateek Mishra and 2 others

.....Petitioner(s)

Versus

State of Uttar Pradesh and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Agnihotri Kumar Tripathi	
Counsel for Respondent(s)	:	C.S.C., Kushmondeya	Shahi,
		Vaibhav Tripathi	

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Agnihotri Kumar Tripathi, learned counsel for the petitioners, Mr. Kushmondeya Shahi, learned counsel for respondent No.3, Mr. Vaibhav Tripathi, learned counsel for respondent No.6 and Mr. Sunil Kumar Shukla, learned counsel for the State.

2. The instant petition has been filed, inter alia, with a prayer for quashing the Government Order dated 02.9.2026 issued by respondent no. 1 and the memorandum dated 03.9.2026 issued by respondent no. 5. A further prayer has been made for issuance of a writ of mandamus directing the State Government to conduct regular Teacher Eligibility Test (TET) in accordance with the notifications and guidelines issued by the National Council for Teacher Education (NCTE), as amended from time to time.

3. Learned counsel for the petitioners submits that, by the impugned Government Order dated 02.9.2026 and the

consequential advertisement dated 03.9.2026, the State of Uttar Pradesh has decided to conduct a Special Teacher Eligibility Test (TET) for in-service teachers and candidates belonging to the category of Children with Special Needs (CWSN). It is submitted that the petitioners are concerned only with the requirement relating to in-service teachers and have no grievance with regard to the provision made in respect of CWSN candidates.

4. The proviso to Section 23(2), as inserted by Act No. 24 of 2017, reads as follows:

“23. Qualifications for appointment and terms and conditions of service of teachers.

2. [Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017].”

5. A letter dated 3rd August, 2017, issued by the Additional Secretary, Ministry of Human Resource Development, Government of India, reiterated that the last date for acquiring the minimum qualifications was 1st April, 2019, and that no teacher who did not possess the prescribed minimum qualifications would be permitted to continue in service beyond the said date. The aforesaid position has been noticed in paragraph 69 of the judgment rendered in **Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra and others, 2025 SCC OnLine SC 1912**, which is quoted hereinbelow:

“69. On 3rd August, 2017, the Additional Secretary, Ministry of Human Resource Development, Department of School Education & Literacy, issued a letter to the State secretaries, reminding that the last date to acquire minimum qualifications is 1st April, 2019, and no teacher, who did not possess minimum qualifications under the

RTE Act, would be permitted to continue in service beyond the given date.”

6. Accordingly, the Hon’ble Supreme Court, by its order dated 01.09.2025, prescribed a period of two years within which in-service teachers were required to qualify the Teacher Eligibility Test (TET). The relevant paragraphs, i.e. paragraphs 216 and 217, are quoted hereinbelow:

“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 superannuation being made by him/her.”

7. Pursuant to the aforesaid judgment, the State of Uttar Pradesh has issued the impugned order providing for the conduct of a Special Teacher Eligibility Test (TET) for in-service teachers. The object of conducting the Special TET for in-service teachers, as well as the object of the TET prescribed under the guidelines dated 11.02.2011, is quoted hereinbelow:

Object of Special T.E.T. conducted by the State of U.P. by impugned Notification	Object of T.E.T. as per guideline dated 11.02.2011.
शासन द्वारा मा0 उच्चतम न्यायलय द्वारा पारित उपर्युक्त आदेश दिनांक 29 मई, 2026 से बड़ी संख्या में शिक्षकों के प्रभावित होने के दृष्टिगत प्राथमिक स्तर एवं उच्च प्राथमिक स्तर पर कार्यरत शिक्षकों हेतु विशेष अध्यापक शिक्षक पात्रता परीक्षा (Special TET) आयोजित कराने का निर्णय लिया गया है।	3. The rationale for including the TET as a minimum qualification for a person to be eligible for appointment as a teacher is as under: i. It would bring national standards and benchmark of teacher quality in the recruitment process; ii. It would induce teacher education institutions and students from these institutions to further improve their performance standards; iii. It would send a positive signal to all stakeholders that the Government lays special emphasis on teacher quality. 4. The TET examination may be conducted by a suitable professional body designated by the appropriate Government for the purpose. It will be conducted in accordance with the Guidelines.

8. Learned counsel for the petitioner submits that the Full Bench of this Court has interpreted the object and purpose of the Teacher Eligibility Test in paragraph 94 of **Anand Kumar Yadav & Ors. v. Union of India & Ors.**, reported in 2015 (8) ADJ 338 (Full Bench), which is quoted hereinbelow:

“94. The object and purpose of introducing the TET is to ensure that a teacher who embarks upon instructing students of primary and upper primary classes is duly equipped to fulfil the needs of the students, understands the relevance of education for a child at that stage and can contribute to the well rounded development of

the child. Teaching a child is not merely a matter of providing information. Deeply embedded in the process of imparting education is sensitivity towards the psyche of the child, the ability to understand the concerns of a young student of that age, the motivations which encourage learning and the pitfalls which have to be avoided. The emphasis on clearing the TET is to ensure the maintenance of quality in imparting primary education. These requirements which have been laid down by NCTE fulfil an important public purpose by ensuring a complement of trained teachers who contribute to the learning process of children and enhance their growth and development. These requirements should not be viewed merely as norms governing the relationship of a teacher with the contract of employment. These norms are intended to fulfil and protect the needs of those who are taught, namely, young children. India can ignore the concerns of its children only at the cost of a grave peril to the future of our society. The effort of the State Government to by-pass well considered norms which are laid down by NCTE must be disapproved by the Court. We have done so on the ground that the State Government lacks the legislative power and competence to do so. Equally, fundamental is the concern that a relaxation of the norms prescribed by an expert body will result in grave detriment to the development and growth of our young children and the provision of quality education to them. Providing quality education is crucial for students belonging to every strata of society. Education which is provided in schools conducted by the Basic Education Board should not be allowed to degenerate into education of poor quality which it will, if the norms which are prescribed by an expert body under legislation enacted by Parliament in the national interest are allowed to be ignored by the State Government on the basis of parochial or populist perceptions. Such an attempt is ultra vires the statutory powers of the State and is arbitrary and violative of Article 14 of the Constitution.”

9. Learned counsel for the petitioner submits that the impugned order is not in consonance with the object and purpose of the

Teacher Eligibility Test (TET), as contemplated under the guidelines dated 11.2.2011 issued by the NCTE. It is, therefore, contended that the impugned notification and advertisement are arbitrary and violative of Article 14 of the Constitution of India.

10. Learned counsel for the petitioner submits that the NCTE was designated by the Central Government as the authority under Section 23(1) of the RTE Act to lay down the minimum qualifications for appointment as a teacher. It is, therefore, contended that the State Government has no power to deviate from the object and purpose of the TET as prescribed and settled by the NCTE. The aforesaid position has been noticed by the Full Bench in **Anand Kumar Yadav (supra)** in paragraphs 66 and 90.

“66. The Central Government authorised the NCTE as the academic authority to lay down the minimum qualifications for a person to be eligible for appointment as a teacher by a notification dated 31 March 2010 issued in exercise of the powers conferred by Section 23 (1) of the RTE Act of 2009. NCTE notified the minimum qualifications required for appointment as a teacher in terms of sub-section (1) of Section 23 by its notification on 23 August 2010 defining eligibility for appointment as a teacher to classes I to VIII in a school covered by Section 2(n) of the RTE Act of 2009. The minimum qualifications prescribed by NCTE envisaged broadly (i) a senior secondary certificate; (ii) a diploma in elementary education; and (iii) passing of the TET to be conducted by the appropriate Government in accordance with NCTE guidelines. These were the qualifications prescribed for teachers of classes I to V and corresponding qualifications were also prescribed in the notification dated 23 August 2010 in relation to teachers of classes VI to VIII. Both for teachers of classes I to V and for those of classes VI to VIII, NCTE made the passing of the TET mandatory. Clause 3 of the notification provided for a post- appointment training under an NCTE recognized six month special programme in elementary education in the case of two categories: the first being for those with a BA/BSc degree and

BEd qualification, and the second for those with a BEd (Special Education) or DEd (Special Education).

90. The Full Bench has held that the object of the TET is to ensure that a teacher is qualified in the field which he is about to enter. Affirming the view which was taken in an earlier judgment of a Division Bench, the Full Bench affirmed the power of NCTE to prescribe qualifications and held that after the coming into force of the RTE Act of 2009 and the prescription of qualifications by NCTE, the State is not a free agent to do as it wills. The failure of the State Government to timely implement the qualifications which were laid down by NCTE, it was held, would not dilute or take away the impact of the notification which was mandatory. In view of the Full bench:

In our opinion, however, merely because the State incorporated these provisions in its Rules later on would not take away the impact of the norms prescribed by the National Council for Teacher Education that stood in force w.e.f. 23.08.2010. The delegated legislation of the State Government was subject to the primary legislation of the Central Government. The framing of Rules as a subordinate legislation is subservient to the provisions framed by the Central Government. The notification dated 23.08.2010, therefore has an overriding effect and it could not have been ignored. If the State Government has proceeded to make appointments after 23.08.2010 without complying with the provisions of teacher eligibility test then such appointments would be deficient in such qualification.”

11. Learned counsel for the petitioner further submits that it is the constitutional obligation of the State to ensure that educational institutions maintain high standards of teaching and that the appointment and continuance of teachers strictly conform to the prescribed qualifications so as to safeguard the quality of education. He further submits that Article 21-A was incorporated in the Constitution with the object of ensuring that children receive proper and quality education, and, therefore, the quality and competence of

the teaching staff cannot be compromised in any manner. It is further submitted that the aforesaid principles have been noticed by the Hon'ble Supreme Court in paragraphs 159 and 169 of **Anjuman Ishaat-e- Taleem Trust (supra)**.

“159. Quality of teachers and teaching standards are integral to the fundamental right to education under Article 21A cannot perhaps be doubted. This Court, times without number, has emphasized that 'education' would be meaningless if it is not accompanied by quality education, which is primarily dependent on qualified and well-trained teachers. Further, it is the State's constitutional obligation to ensure that educational institutions maintain high teaching standards, and appointments of teachers should strictly adhere to prescribed qualifications to maintain these educational standards.

169. 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.”

12. Learned counsel for the petitioners further submits that, till 31.8.2028, there is no possibility of the State Government or the Central Government conducting two separate Teacher Eligibility Test examinations. It is, therefore, contended that, despite there being sufficient opportunities available to in-service teachers to appear in and qualify the TET, the State Government, for reasons best known to it, has chosen to conduct a Special Teacher Eligibility Test exclusively for in-service teachers.

13. It is further submitted that the very decision to conduct a Special TET for in-service teachers gives rise to a reasonable apprehension that the State Government seeks to dilute the prescribed standards and criteria of the TET, merely to facilitate the in-service teachers in completing the procedural requirement of qualifying the TET. Such dilution, according to learned counsel, would adversely affect the rights and prospects of the petitioners and similarly situated candidates seeking appointment as teachers, as candidates who otherwise do not satisfy the prescribed standards may, by merely undergoing the Special TET, become eligible for consideration for appointment.

14. Learned counsel, therefore, submits that the impugned action of the respondents is arbitrary and has the effect of adversely affecting the legitimate right of consideration of the petitioners and similarly situated candidates for appointment, and consequently warrants interference by this Court.

15. Learned counsel for the petitioners further submits that strict adherence to the rule of equality in matters of public employment is a basic feature of the Constitution. Since the rule of law constitutes the core of the constitutional scheme, this Court cannot countenance any action which results in violation of Article 14 or overlooks the mandatory requirements of Article 14 read with Article 16 of the Constitution of India.

16. It is, therefore, submitted that, consistent with the constitutional scheme governing public employment, an appointment can confer a legally enforceable right upon an appointee only when it is made in accordance with the applicable statutory rules and after affording a fair and equal opportunity of competition to all eligible and qualified candidates. An appointment made otherwise cannot confer any right upon the appointee contrary to the constitutional mandate of equality in public employment.

17. Learned counsel for the petitioners further submits that, so far as the locus of the petitioners is concerned, a similar situation had arisen in the year 2014 when the State of Uttar Pradesh took a decision to absorb Shiksha Mitras against the posts of Assistant Teachers. The said decision was challenged before this Court by unemployed candidates who possessed the requisite qualifications for appointment to the post of Assistant Teacher.

18. It is submitted that the prayer made in the petition filed by such unemployed and qualified candidates has been noticed by the Hon'ble Supreme Court in **State of Uttar Pradesh and another v. Anand Kumar Yadav and another**, (2018) 13 SCC 560, which reads as follows:

“13. Batch of writ petitions was filed before the High Court by persons who claimed to be eligible for appointment and whose chances were affected by filling up of vacancies of teachers by regularising the Shiksha Mitras against the said vacancies, praying as under:

"(a) A writ, order or direction in the nature of certiorari quashing the Notifications dated 30-5-2014 issued by the State Government notifying the U.P. Right of Children to Free and Compulsory Education (First Amendment) Rules, 2014 and the U.P. Basic Shiksha Adhyapak Seva (19th Sansodhan) Niyamawali, 2014 (Annexures Nos. 22-A & 22-B);

(b) A writ, order or direction in the nature of certiorari quashing the Government Orders dated 7-2-2013 and 16-6- 2014 (Annexures Nos. 21 & 23);

(c) A writ, order or direction of a suitable nature restraining the respondents from taking any action on the basis of the impugned notifications/Government Orders;

(d) Any other writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case; and

(e) Award costs of the petition to be paid to the petitioners."

19. Learned counsel for the petitioners further submits that the petitioners have the necessary locus standi to challenge the impugned order. It is contended that the question of locus in the context of a challenge by similarly situated unemployed and qualified candidates has already been considered by the Full Bench in **Anand Kumar Yadav (supra)**. The Full Bench, in paragraph 110 of the said judgment, has observed as follows:

“110. Admittedly, all the petitioners were qualified to apply for and be considered for appointment as Assistant Teachers. Their right of consideration was clearly affected and is in fact eclipsed by the absorption of Shiksha Mitras. It cannot therefore be said that the petitioners lacked locus to maintain the writ petitions.”

20. To sum up, learned counsel for the petitioners has challenged the impugned Government Order dated 2.9.2026 and the consequential memorandum dated 3.9.2026 on, inter alia, the following grounds:

A. Because the petitioners possess all the qualifications prescribed by the NCTE for appointment as teachers in primary and upper-primary schools run under the Basic Education Board and have also qualified the Teacher Eligibility Test conducted by the appropriate Government through the body duly authorised for the said purpose.

B. Because the State Government, in exercise of the powers conferred under the Uttar Pradesh Basic Education Act, 1972, has framed the Uttar Pradesh Basic Education (Teachers) Service Rules, 1981, which prescribe the procedure for recruitment, qualifications and other conditions of service of teachers.

C. Because, in furtherance of the constitutional mandate contained in Article 21-A of the Constitution of India, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009, with the object of ensuring access to and maintenance of quality education.

D. Because, under Section 23(1) of the RTE Act, 2009, the Central Government has authorised the NCTE as the academic authority competent to lay down the minimum qualifications for appointment as a teacher.

E. Because, in exercise of the power conferred by Section 23(1) of the RTE Act, the Central Government has authorised the NCTE to prescribe the eligibility criteria and guidelines governing the conduct of the Teacher Eligibility Test, and the NCTE has accordingly issued guidelines for conducting the TET. There is, however, no provision in the said statutory framework or the NCTE guidelines authorising the State Government to introduce a separate or differently structured Special Teacher Eligibility Test for in-service teachers.

F. Because the decision of the Government of Uttar Pradesh to conduct a Special TET is violative of Articles 14 and 16 of the Constitution of India, particularly when teachers appointed after qualifying the regular TET are already serving in accordance with the prescribed norms, whereas unemployed and otherwise eligible candidates, including the petitioners, are awaiting an opportunity to compete for appointment to the posts of Assistant Teachers.

G. Because, from a perusal of the impugned Government Order, it does not appear that the State Government obtained any approval or concurrence from the NCTE for conducting the proposed Special TET, notwithstanding the fact that the NCTE is the academic authority entrusted with the function of prescribing the minimum qualifications and standards applicable to teachers.

H. Because the State Government has no authority to curtail, dilute or otherwise alter the standards prescribed by the competent academic authority or to independently prescribe a separate eligibility mechanism for appointment as Assistant Teacher. Consequently, the decision to conduct a Special TET, insofar as it

departs from the standards prescribed under the applicable statutory framework, is without authority of law.

I. Because the Hon'ble Supreme Court, in **Anjuman Ishaat-e-Taleem Trust (supra)**, has emphasised the requirement of qualifying the Teacher Eligibility Test for teachers covered by the relevant statutory regime, and the requirement cannot be substituted by any alternative mechanism devised by the State Government contrary to the prescribed standards.

J. Because the grievance of the petitioners is that, by means of the impugned Government Order, the State Government seeks to facilitate the continuance in service of in-service teachers who have not qualified the regular TET by introducing a separate test or mechanism which, according to the petitioners, would have the effect of lowering or diluting the standards prescribed for the regular TET under the NCTE guidelines.

K. Because the decision of the State Government to conduct a Special TET, according to the petitioners, infringes Article 16 of the Constitution, which guarantees equality of opportunity in matters relating to public employment. It is submitted that in-service teachers who have not fulfilled the prescribed eligibility requirements cannot be placed in a position more advantageous than unemployed candidates who have already qualified the regular TET and otherwise satisfy the prescribed qualifications for appointment. The petitioners contend that permitting such candidates to acquire eligibility through a separate and allegedly diluted process would adversely affect their legitimate opportunity for consideration for appointment as Assistant Teachers.

L. Because the petitioners, who are fully qualified in accordance with the applicable TET requirements, have not submitted applications for both Paper-I and Paper-II pursuant to the impugned Special TET, Paper-I pertaining to the primary level, i.e. Classes I to

V, and Paper-II pertaining to the upper-primary level, i.e. Classes VI to VIII, as the petitioners contend that participation in the impugned process would amount to acceptance of the very mechanism which they have challenged before this Court.

21. Thus, on the aforesaid grounds, learned counsel for the petitioners submits that the impugned Government Order dated 2.9.2026 and the consequential memorandum/advertisement dated 3.9.2026 are arbitrary, violative of Articles 14 and 16 of the Constitution of India and contrary to the statutory scheme, the object and purpose underlying the Teacher Eligibility Test, the guidelines issued by the NCTE, and the principles laid down by the Hon'ble Supreme Court in the judgments referred to hereinabove.

22. Learned counsel appearing for respondent Nos.4 and 5, Mr. K Shahi, submits that the present writ petition has been filed by the petitioners challenging the Government Order dated 2 September 2026, whereby the State Government has granted permission for conducting a Special Teachers Eligibility Test (TET) for those teachers who were appointed prior to 23 August 2010.

23. He submits that the National Council for Teacher Education (NCTE), by its notification dated 23 August 2010, prescribed the requisite qualifications for appointment to the post of Assistant Teacher and, for the first time, incorporated the qualification of passing the Teachers Eligibility Test (TET) as one of the essential qualifications for such appointment.

24. Learned counsel further submits that, subsequently, by the amendment introduced in the year 2017 in Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, teachers who had already been appointed and were working in recognised institutions were granted an opportunity to acquire the prescribed minimum qualifications within a period of five years. However, despite the statutory provision, no effective proceedings

were initiated for conducting TET for such in-service teachers within the stipulated period.

25. It is submitted that the controversy relating to the period within which such teachers were required to acquire the prescribed minimum qualification has subsequently been considered by the Hon'ble Supreme Court in Civil Appeal No.1385 of 2025, Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra, decided on 1 September 2025. By the said order, the Hon'ble Supreme Court extended the period contemplated under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, from the original period of five years up to 31 August 2027.

26. Learned counsel, therefore, submits that the impugned Government Order dated 2 September 2026 has been issued in the backdrop of the aforesaid statutory framework and the subsequent directions of the Hon'ble Supreme Court, and that the State Government, by permitting a Special TET for teachers appointed prior to 23 August 2010, has merely provided an opportunity to such in-service teachers to acquire the requisite qualification within the extended period.

27. Learned counsel for respondent Nos.4 and 5 further submits that the TET examination was conducted by respondent No.5, the Commission, on 2, 3 and 4 July 2026 for eligible candidates. In the said examination, as many as 19,94,661 candidates are stated to have submitted their applications, and the result thereof was declared on 26 August 2026. The petitioners have neither challenged the said examination nor the result declared pursuant thereto.

28. It is further submitted that the State Government had preferred a review petition against the judgment and order passed in Civil Appeal No.1385 of 2025, Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra, which was registered as Review Petition

(Civil) No. 53434 of 2025, State of U.P. v. Anjuman Ishrat Taleem Trust. The said review petition was dismissed by the Hon'ble Supreme Court by order dated 29 May 2026, whereby the period earlier extended up to 31 August 2027 was further extended up to 31 August 2028.

29. Learned counsel submits that, in compliance with the aforesaid order dated 29 May 2026 passed by the Hon'ble Supreme Court, the State Government, by Government Order dated 2 September 2026, has decided to conduct a Special TET for in-service teachers, as contemplated under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009.

30. It is lastly submitted that the petitioners themselves have categorically stated in paragraph 5 of the writ petition that they have already passed the TET conducted by the appropriate body authorised by the Government. Consequently, according to learned counsel, the petitioners have no surviving grievance against the Government Order dated 2 September 2026 and, therefore, no locus to challenge the same. The writ petition is accordingly liable to be dismissed.

31. Having considered the rival submissions and the material placed on record, this Court finds that the challenge raised by the petitioners is founded essentially upon a misconception as to the nature and effect of the impugned Government Order. The Government Order does not dispense with the requirement of Teacher Eligibility Test (TET), nor does it confer upon the in-service teachers any exemption from the said statutory qualification. On the contrary, it has been issued to facilitate their acquisition of the very qualification which, in view of the subsequent declaration of law by the Hon'ble Supreme Court in view of NCTE notification, has become mandatory for teachers covered by the statutory regime.

32. The locus standi of the petitioners, therefore, has to be examined in the context of the injury which they allege. The petitioners have already qualified TET and are awaiting the commencement of the recruitment process pursuant to which vacancies are proposed to be advertised. They consequently possess the prescribed eligibility qualification and have a legitimate interest in being considered for appointment in accordance with the applicable recruitment rules. Nevertheless, mere possession of TET does not, by itself, confer a vested right to appointment against future vacancies, particularly before an advertisement is issued and the selection process is commenced. Equally, the petitioners cannot claim that the State is constitutionally prohibited from enabling another class of persons to acquire a qualification which has subsequently become mandatory merely because the petitioners have already obtained that qualification.

33. The true question, therefore, is not whether the petitioners have locus to maintain the present petition, they undoubtedly have sufficient legal interest to question an executive action which is alleged to affect their opportunity of public employment but whether the impugned Government Order, in its actual operation, causes any legally cognizable prejudice to them or creates an unconstitutional preference in favour of the in-service teachers.

34. The answer, on the facts presently placed before the Court, must be in the negative.

35. The controversy stands substantially governed by the judgment of the Hon'ble Supreme Court in *Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra*, 2025 SCC OnLine SC 1912. In the said judgment, the Hon'ble Supreme Court in view of NCTE notification held that qualification of TET is a mandatory eligibility requirement for the teachers to whom the statutory scheme applies and that the requirement extends to in-service teachers for

continuation in service and, a fortiori, to promotion. The Court, exercising its jurisdiction under Article 142 of the Constitution, nevertheless granted a period to the concerned in-service teachers having more than five years of service remaining to acquire the qualification, having regard to the consequences which immediate implementation might have upon the continuity of elementary education.

36. The matter thereafter came before the Hon'ble Supreme Court in review, by way of Review Petition (Civil) Diary No.53434 of 2025 filed by the State of Uttar Pradesh. The review jurisdiction was not exercised so as to dislodge or dilute the substantive declaration made in Anjuman Ishaat-e-Taleem Trust (supra). On the contrary, the Court found no error warranting review and reaffirmed the requirement of TET. The only modification considered necessary was with regard to the period within which the concerned in-service teachers were required to acquire the qualification. Exercising its power under Article 142, the Court extended the period from two years to three years, directing that the TET qualification be obtained by 31 August 2028, instead of 31 August 2027. The Court further directed the respective States and competent authorities to endeavour to conduct TET periodically, preferably twice a year, so that eligible teachers receive a reasonable opportunity to comply with the statutory requirement. The review petitions were accordingly dismissed subject to the aforesaid limited modification.

37. The impugned Government Order must, therefore, be understood in the aforesaid constitutional and statutory setting. The special TET examination is not an examination designed to confer an advantage in recruitment upon the in-service teachers. It is an opportunity afforded to them to acquire the qualification which they are now required to possess by reason of the law declared by the

Hon'ble Supreme Court. The very foundation of the special examination is thus compliance with the mandatory requirement of TET and not relaxation thereof.

38. The distinction between acquiring a qualification and receiving preference in appointment is of decisive importance. So long as the special TET merely enables the concerned in-service teachers to obtain the prescribed qualification within the period granted by the Hon'ble Supreme Court, no element of preferential treatment can be attributed to the impugned Government Order. The State is not thereby declaring that such teachers shall be appointed in preference to the petitioners; nor is it reserving vacancies for them; nor is it granting them additional marks, weightage or relaxation in the recruitment process. Their acquisition of TET through the special examination merely brings them within the class of persons possessing the minimum qualification prescribed for teachers.

39. The contention founded upon Articles 14 and 16 of the Constitution must also be considered in this light. Article 14 prohibits arbitrary discrimination, while Article 16 guarantees equality of opportunity in matters relating to public employment. These constitutional guarantees would undoubtedly be attracted if, in the eventual recruitment process, the State were to confer upon persons who qualify through the special TET an unwarranted preference over candidates who have already qualified TET, without any statutory or judicial basis for such differentiation. But no such consequence follows merely from permitting the concerned in-service teachers one opportunity to acquire TET, that too in compliance of order of Hon'ble Apex Court.

40. The petitioners and the concerned in-service teachers may presently stand at different stages of qualification, but such distinction does not, in itself, amount to unconstitutional

discrimination. The petitioners have already qualified TET; the concerned in-service teachers are being afforded an opportunity to acquire the same qualification because the Hon'ble Supreme Court has judicially determined that such qualification is mandatory in view of NCTE notification and has, in exercise of its extraordinary jurisdiction, granted them a limited period to comply. The object and purpose of the classification are thus traceable directly to the statutory requirement and the binding directions of the Apex Court.

41. Indeed, to strike down the special TET merely on the ground that the petitioners had already qualified TET would, in substance, amount to questioning the implementation of the very accommodation which the Hon'ble Supreme Court itself has considered necessary in the interest of continuity of elementary education. The State cannot be faulted for giving effect to a binding judicial direction. The review judgment expressly contemplated periodic conduct of TET so that eligible in-service teachers may obtain the qualification within the extended period.

42. It is equally material that the petitioners have not yet acquired a vested right to appointment. Their assertion that they have qualified TET and are awaiting advertisement undoubtedly establishes their eligibility and their legitimate expectation of consideration in accordance with law; however, until vacancies are advertised and the selection process is undertaken, no candidate can claim an indefeasible right to appointment merely by possessing the prescribed qualification. The State is, therefore, not presently taking away any accrued right of the petitioners by permitting the concerned in-service teachers to qualify TET.

43. Nor does the impugned Government Order alter the position of the petitioners in any adverse manner. Their TET qualification remains valid. They remain eligible to compete for appointment whenever the competent authority initiates recruitment in

accordance with law. The special TET does not render their qualification ineffective, nor does it impose any additional qualification upon them, nor does it require them to compete for appointment on any altered or inferior footing.

44. The same reasoning applies to persons working as Shiksha Mitras. Nothing in the judgment of the Hon'ble Supreme Court in Anjuman, or in the review judgment dated 29 May 2026, can be read as creating, by itself, a vested right in favour of a Shiksha Mitra to appointment as a regular teacher. The review judgment concerns the acquisition of the mandatory TET qualification by the class of in-service teachers covered by the directions of the Apex Court. It does not, by its own force, create a separate source of recruitment or confer a preferential right of appointment upon any category of persons.

45. It must, however, be made clear that this Court is not examining at this stage any future selection process which may be undertaken by the State. If, at the stage of recruitment, the State were to provide any preferential treatment, relaxation, weightage or reservation to the beneficiaries of the special TET which is not authorised by the statutory rules or by the judgment of the Hon'ble Supreme Court, such action would necessarily have to withstand scrutiny under Articles 14 and 16 of the Constitution. The present Government Order, however, cannot be invalidated on the basis of a possibility of some future action which is neither contained in the impugned Government order nor shown to have been undertaken.

46. The constitutional guarantee of equality cannot be invoked to prevent the State from bringing another class of candidates up to the prescribed minimum qualification. Equality of opportunity does not mean that every candidate must forever remain at the same stage of qualification; it requires that, once the recruitment process is undertaken, persons similarly situated for the purposes of that

recruitment are dealt with in accordance with law and without arbitrary preference. The special TET merely enables the concerned in-service teachers to acquire the threshold qualification; it does not, by itself, determine their selection or appointment.

47. Thus, the apprehension expressed by the petitioners that the conduct of the special TET would, by itself, impair their rights under Articles 14 and 16 is premature and misconceived. The special TET is a consequence of the law declared in *Anjuman Ishaat-e-Taleem Trust* (supra) and the limited extension granted by the Hon'ble Supreme Court in its review. It is intended to provide the concerned in-service teachers with the opportunity contemplated by the Apex Court to acquire TET by 31 August 2028. It does not create any preferential right of appointment or promotion in their favour.

48. In these circumstances, this Court finds no ground to hold that the impugned Government Order, merely because it provides for a special TET for the concerned in-service teachers, violates Articles 14 or 16 of the Constitution or adversely affects the rights of the petitioners who have already qualified TET. The petitioners shall remain entitled to participate in the recruitment process in accordance with the applicable rules and shall be considered along with all other candidates who satisfy the prescribed eligibility conditions. The mere fact that another class is being afforded an opportunity to acquire the same mandatory qualification pursuant to the binding directions of the Hon'ble Supreme Court does not, without more, constitute hostile discrimination or denial of equality of opportunity.

49. For the foregoing reasons, the challenge to the impugned Government Order fails. The special TET contemplated therein is only a mechanism for enabling the concerned in-service teachers to comply with the mandatory TET requirement within the period

judicially permitted by the Hon'ble Supreme Court. It neither confers upon them any exemption from TET nor creates any preferential right to appointment or promotion, and consequently does not, at this stage, occasion any prejudice to the petitioners who have already qualified TET.

50. The petition is, accordingly, **dismissed**, leaving it open to the petitioners to assail any subsequent recruitment action, if and when undertaken, should the same confer a preference or advantage not sanctioned by the statutory rules or the directions of the Hon'ble Supreme Court.

(Mrs. Manju Rani Chauhan,J.)

October 1, 2026

Rahul