2026 INSC 597

REPORTABLE

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

REVIEW PETITION (CIVIL) DIARY NO.53434/2025
IN
CIVIL APPEAL NO. 1385/2025

STATE OF U.P. ...PETITIONER

VERSUS

ANJUMAN ISHAAT-E-TALEEM TRUST & ORS. ...RESPONDENTS

WITH

Diary No.55957/2025, Diary No.56384/2025, Diary No.56582/2025, Diary No.56589/2025, Diary No.56602/2025, Diary No.56741/2025, Diary No.56808/2025, Diary No.57161/2025, Diary No.58339/2025, Diary No.59156/2025, Diary No.59489/2025, Diary No.60992/2025, Diary No.61041/2025, Diary No.61173/2025, Diary No.61181/2025, Diary No.61887/2025, Diary No.61917/2025, Diary No.62248/2025, Diary No.64833/2025, Diary No.65035/2025, Diary No.65057/2025, Diary No.66125/2025, Diary No.67283/2025, Diary No.68800/2025, Diary No.66034/2025, Diary No.70291/2025, Diary No.71164/2025, Diary No.248/2026, Diary No.282/2026, Diary No.1576/2026, Diary No.2626/2026, Diary No.2700/2026, Diary No.5215/2026, Diary No.6716/2026, Diary No.7690/2026, Diary No.69416/2025, Diary No.56647/2025, Diary No.56792/2025, Diary No.58244/2025, Diary No.59344/2025,

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Reason:

Diary No.60483/2025, Diary No.60485/2025,
Diary No.60486/2025, Diary No.60488/2025,
Diary No.60491/2025, Diary No.60493/2025,
Diary No.60497/2025, Diary No.60501/2025,
Diary No.60528/2025, Diary No.60529/2025,
Diary No.60533/2025, Diary No.60534/2025,
Diary No.60539/2025, Diary No.65262/2025,
Diary No.9261/2026, Diary No.12697/2026,
Diary No.12820/2026, Diary No.14435/2026,
Diary No.15376/2026, Diary No.17253/2026,
Diary No.20018/2026, Diary No.23484/2026,
Diary No.25604/2026, Diary No.25730/2026,
Diary No.26320/2026, Diary No.56443/2025,
Diary No.24377/2026, Diary No.27488/2026,
AND
Diary No.28296/2026.

J U D G M E N T

DIPANKAR DATTA, J.

PROEM

1. We are tasked to consider and decide a batch of review petitions (initially in excess of 65 and some subsequently), that are presented with a common grievance that the judgment and order[1] passed by us in ***Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra***[2] erroneously interprets the Right of Children to Free and Compulsory Education Act, 2009[3]. Premised on the multi-fold grounds urged in the petitions, it is claimed that the order under review has caused immense injustice to the petitioners and, thus,

[1] order under review
[2] 2025 SCC OnLine SC 1912
[3] RTE Act

ought to be reviewed upon extending opportunity of hearing in open court proceedings. *Vide* the order under review, *inter alia*, in-service teachers imparting lessons to students recruited prior to enactment of the RTE Act, and having more than 5 (five) years to retire on superannuation, were held to be under an obligation to qualify the Teacher Eligibility Test[4] within 2 (two) years from 1st September, 2025. In the interest of justice, we directed the review petitions to be placed for open court hearing.

2. Petitioners – various States, teachers' associations/organisations, individual teachers – are not aggrieved by the entirety of what we held in ***Anjuman*** (supra); rather, they are aggrieved by only a part of it which we have noticed in the preceding paragraph.

3. However, for the sake of completeness, we may record that upon threadbare examination of the Constitution, Article 21-A, and the relevant statutory provisions, we held [from paragraph 192 onwards of ***Anjuman*** (supra)] that the requirement of qualifying the TET applies equally to in-service teachers as a mandatory eligibility condition for continuation in service and is, a *fortiori*, mandatory for promotion. Invoking our powers under Article 142 of the Constitution, we granted a period of 2 (two) years to those teachers who had more than 5 (five) years of service remaining to qualify the TET, failing which they would not be entitled to continue in service. We further clarified that, irrespective of the length of service

[4] TET

remaining, any teacher aspiring for promotion would necessarily be required to qualify the TET.

4. It is primarily these observations/directions that the petitioners claim to be premised on an incorrect interpretation of the RTE Act and is, thus, erroneous on the face of the record.

5. This Court in ***Northern India Caterers (India) Ltd. v. State (UT of Delhi)***[5], speaking through the illustrious voice of Hon'ble Krishna Iyer, J., had expressed the limited scope of review as:

> "*A plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result*."

6. Yet again, recently, this Court in ***Bharti Airtel Ltd. v. A.S. Raghavendra***[6] had the occasion to hold as follows:

> **16.** The gist of the aforestated decisions is that:
> **16.1.** A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.
> **16.2.** A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.
> **16.3.** An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.
> **16.4.** In exercise of the jurisdiction under Order 47 Rule 1CPC, it is not permissible for an erroneous decision to be "reheard and corrected".
> **16.5.** A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".
> **16.6.** Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

[5] (1980) 2 SCC 167
[6] (2024) 6 SCC 418

> **16.7.** An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.
> **16.8.** Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review.

7. The above-referred decisions are only two out of multiple precedents which emphatically lay down the law that a review petition cannot, by any plausible standard, be an appeal in disguise.

8. Though in the garb of seeking a review the Court cannot be invited to rehear and redecide an issue which stands finally decided, unless the parameters envisaged in Section 114 read with Order XLVII of the Code of Civil Procedure, 1908 are satisfied, we permitted learned senior counsel/counsel to argue as if we are tasked to decide the issue anew taking into account another grievance of the petitioners of breach of the *audi alteram partem* rule.

9. We had the good fortune of the able and erudite assistance of the cream of the Supreme Court bar, *viz.* Mr. Banerjee, learned Additional Solicitor General; Mr. Dwivedi, Dr. Singhvi, Mr. Rohatgi, Mr. Gupta, Mr. Patwalia, Mr. Giri, Mr. Khurshid, Mr. Jha, Ms. Mohana, Mr. Naidu, Mr. Rahim, and Ms. Padmanabhan, learned senior counsel, in that order as well as other learned counsel appearing for the respective petitioner(s). We have also had the benefit of being addressed by Mr. Bhattacharjee, learned senior counsel and other learned counsel of the Calcutta High Court bar.

CONTENTIONS/OBJECTIONS

10. Having heard submissions advanced by all the learned senior counsel/counsel, the contentions/objections can be narrowed down to five crisp points:

a. The provisions of the RTE Act, which came into force from 1st April, 2010 together with the amendment introduced by the Amendment Act of 2017[7], cannot be applied retrospectively to teachers who had been appointed prior to the said date.

b. The first proviso to section 12A of the National Council for Teacher Education Act, 1993[8] was pressed into service to contend that the teachers who were recruited prior to the commencement of the NCTE Amendment Act, 2011 cannot be removed solely on the ground of non-fulfilment of such qualifications as may be prescribed by the NCTE.

c. Insistence upon qualification of the TET for in-service teachers is arbitrary, unreasonable and unjustified, inasmuch as such teachers had been appointed in accordance with the prevailing service rules and regulations and, at a point of time, when qualifying the TET was not prescribed as an essential condition. Additionally, in certain States, teachers were expressly exempted from such requirement. The subsequent imposition of the TET as a mandatory qualification by an

[7] 2017 Amendment Act
[8] NCTE Act

erroneous judicial interpretation of the RTE Act in general and Section 23 thereof in particular, and that too midway in the career of the teachers, is claimed to violate a fundamental principle of service jurisprudence, *viz.* change in conditions of service after appointment causing serious prejudice to the employee cannot be effected.

d. Paragraph 4 (c) of the notification dated 23rd August, 2010 issued by the National Council for Teacher Education[9] exempted teachers appointed for Classes I to VIII prior to the date of the notification from the requirement of possessing the minimum qualifications stipulated in paragraph 1 thereof, including qualification of the TET.

e. Finally, and without prejudice to the other contentions, some of the petitioners contended that the time granted by this Court in paragraph 217 of ***Anjuman*** (supra), i.e., 2 (two) years to acquire the TET, is too short. Thus, they seek a suitable extension of time to acquire the qualification.

ANALYSIS AND DECISION

11. We have heard the petitioners at length on their objections to the order under review. Any grievance that they were not heard stands dispelled. We now propose to explain why their objections do not hold good in law.

[9] NCTE

A. APPLICABILITY OF THE RTE ACT: WHETHER RETROSPECTIVE?

12. One of the principal contentions advanced on behalf of the petitioners was that neither the provisions of the RTE Act nor the 2017 Amendment Act introduced in 2017, insofar as they relate to the requirement of qualifying the TET, could be construed to operate retrospectively and by judicial interpretation be made applicable to in-service teachers. The submission, in sum, was that the in-service teachers, whose appointments stood validly made in accordance with the prevailing recruitment rules at the relevant point of time, could not subsequently be met with disqualification for want of TET qualification.

13. Buttressing the aforesaid contention, considerable reliance was placed on paragraph 4, read with paragraph 1, of the Notification dated 23rd August, 2010 issued by the NCTE which, according to learned counsel for the petitioners, expressly exempted teachers appointed prior to the issuance of the notification from acquiring the minimum qualifications prescribed therein.

14. This contention fails to impress us. Even if certain exemptions are traceable in the subordinate legislation, including any notification, governing the stipulation of minimum qualifications, such subordinate legislation cannot override the parent statute. The enquiry must, therefore, be anchored to the statute itself, the meaning of which is clear and admits of no real ambiguity.

15. Though we had the occasion to read Section 23 of the RTE Act multiple times prior to rendering our opinion in ***Anjuman*** (supra) and the said provision has been read to us over and over again in course of hearing, we need to read it one final time. Section 23 reads:

> **23. Qualifications for appointment and terms and conditions of service of teachers**.—
>
> (1) **Any person** possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.
>
> (2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification:
>
> **Provided that a teacher** who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years:
>
> **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 (24 of 2017).
>
> (3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed.
>
> (emphasis ours)

16. Significantly, sub-section (1) starts with the word *"Any person"*, while the two provisos to sub-section (2) refer either to *"a teacher"* or *"every teacher"*. Upon plain reading, the different words used by the legislature, in our understanding, are not without good reason.

17. For the present, we may profitably leave aside the second proviso introduced *vide* the 2017 Amendment Act. *Simpliciter*, what is required of now, is a plain reading of Section 23 as it stood at the commencement of the RTE Act. The key element of the legislative ordainment in sub-section (1) (by use of word "any person"), therefore, indubitably concerns future appointments, being prospective in nature. As a significant departure from the provision, the first proviso to sub-section (2) employs a markedly different expression. Instead of *"Any person"*, the proviso refers to *"a teacher"* who, at the commencement of the RTE Act, did not possess the minimum qualifications contemplated under sub-section (1). Such teacher was granted a period of 5 (five) years to acquire the prescribed qualifications. The distinction in phraseology employed by the Parliament is neither accidental nor inconsequential. While sub-section (1) governs eligibility for appointment of any person as a teacher prospectively, the first proviso to sub-section (2) specifically deals with teachers already borne in service on the date of commencement of the RTE Act and safeguards their continuance by affording them time to acquire the requisite qualifications. In other words, the usage of the word *"teacher"* and not *"person"* in the first proviso makes it clear that from the very inception of the RTE Act as it stood in 2009, the legislature intended the in-service teachers to also meet the prescribed minimum threshold.

18. Turning to the second proviso, inserted by the 2017 Amendment Act with retrospective effect from 1st April 2015, it only fortifies the aforesaid legislative scheme. It extends the benefit of time to those teachers who were appointed or continued in service as on 31st March 2015, despite not possessing the prescribed minimum qualifications. Far from introducing retrospectivity, the amendment recognizes the existing status of such teachers and provides a further statutory window for compliance.

19. The reason behind the amendment is not far to seek. There could well be teachers who were not able to acquire the qualification in the first instance, the time for which ended on 31st March, 2015 (5 years since 1st April, 2010, when the RTE Act came to be notified). Thus, a further period of four years was granted from 1st April, 2015 [effectively 2(two) years] to every teacher in position as on 31st March to acquire the qualification.

20. Viewed in this prism, the submission grounded on alleged retrospective application of the RTE Act regime by judicial interpretation does not merit acceptance. The statutory framework in itself is plain: it neither invalidates past appointments retrospectively nor visits existing teachers with immediate disqualification. On the contrary, both the original enactment and its amendment are premised upon legislative recognition of existing appointments while simultaneously stipulating a time-bound mechanism for securing minimum qualifications in the larger interest of maintaining standards in elementary education.

B. NCTE ACT VIS-À-VIS RTE ACT

21. Apropos the submission made *qua* section 12A of the NCTE Act, it may be relevant to reproduce the provision coupled with the following provisos as follows:

> **12A. Power of Council to determine minimum standards of education of school teachers.**—For the purpose of maintaining standards of education in schools, the Council may, by regulations, determine the qualifications of persons for being recruited as teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college, by whatever name called, established, run, aided or recognised by the Central Government or a State Government or a local or other authority:
>
> Provided that nothing in this section shall adversely affect the continuance of any person recruited in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate schools or colleges, under any rule, regulation or order made by the Central Government, a State Government, a local or other authority, immediately before the commencement of the National Council for Teacher Education(Amendment)Act, 2011 (18 of 2011) solelyon the ground of non-fulfilment of such qualifications as may be specified by the Council:
>
> Provided further that the minimum qualifications of a teacher referred to in the first proviso shall be acquired within the period specified in this Act or under the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009).
>
> (emphasis ours)

22. During the course of arguments, learned counsel for the review petitioners heavily relied upon the first proviso to contend that the requirement of minimum qualifications would not be applicable to any person prior to the commencement of the NCTE Act. It is germane to observe that while referring to the first proviso, learned counsel lost sight of the second proviso, which reinforces the requirement under the RTE Act that the minimum qualifications be acquired within the stipulated period therein.

C. CHANGE OF SERVICE CONDITIONS

23. The further contention that the TET imposes a retrospective application of a new service condition also falters in light of the undisputed factual position that neither the first proviso nor the second proviso to sub-section (2) of Section 23 has been under a direct challenge in any original legal proceeding prior to and/or post ***Anjuman*** (supra).

24. We sympathize with the teachers who figure as review petitioners, in as much, they could face difficulties highlighted by them. However, a perceived sense of insecurity is not a sufficient reason for this Court to take a re-look at the matter again. That "*TET is not only a mandatory eligibility requirement but it is a constitutional necessity flowing from the right to quality education under Article 21A*"[10] and "*we are alive to the settled legal position that operation of a statute can never be seen as an evil*"[11] are observations made by us in ***Anjuman*** (supra) which need reiteration.

25. In view of the reasoning hereinabove *qua* the retrospectivity of the legislation and the amendment, and since the provision and the proviso extend the compliance window for teachers to equip themselves to improve the quality of teaching for children of impressionable age, in our considered opinion, the provisions of Section 23 cannot be seen as resulting in imposition of a new condition of service.

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[10] see paragraph 169 of the judgment in ***Anjuman*** (supra)
[11] see paragraph 215 of the judgment in ***Anjuman*** (supra)

D. PUBLIC INTEREST RAMIFICATIONS OF DISPLACEMENT OF TEACHERS

26. It was further contended on behalf of the various States that making TET qualification mandatory for in-service teachers, aligned with the stipulated two-year period of compliance, could potentially lead to a large number of teachers being rendered ineligible to continue in service. According to the States, such a consequence would not merely imperil the employment of concerned teachers but would also have serious ramifications on the edifice of public education, particularly the interests of school-going children who may suffer disruption in the continuity and quality of education.

27. Today, we stand nearly a decade away from the window granted by the 2017 Amendment Act and in excess of a decade-and-a-half since the RTE Act was enforced. The period of 15 (fifteen) years could be considered more than sufficient time for a teacher to acquire the TET qualification. In ***Anjuman*** (supra), we noted the practical realities and granted a further time of 2 (two) years to the teachers in service to acquire the TET qualification, exercising our power under Article 142 of the Constitution. This too, according to the review petitioners, is not sufficient.

28. To make the verdict in ***Anjuman*** (supra) inoperative based on the contention that several thousands of teachers would be rendered out of service as a consequence thereof would mean that teachers who do not possess the TET qualification would continue in service, impacting the educational future of generations to come. The RTE Act is a child centric

legislation and must be read so. Service of teachers cannot come at the cost of educational future of the children.

FINDING

29. We, therefore, do not find any error in the order under review, much less palpable error apparent on the face of the record, as warranting review. The review petitioners, it would seem, are not entitled to any relief as prayed for.

THE CONUNDRUM

30. It may, at this point, be relevant to remind ourselves that law must also strive to be pragmatic. Reference can profitably be made to the decision of this Court in ***State of Nagaland v. Lipok AO***[12] wherein it was held that in cases where substantial justice and a technical approach were pitted against each other, a pragmatic approach should be taken with the former being preferred. Though this observation was with regard to condonation of delay, we need to consider whether it would be appropriate as well to bear such principle in mind, in light of the difficulties brought to the fore by learned counsel.

31. Does the concern that teachers could likely get displaced and the interests of children being rendered a casualty, merit consideration to any extent? Whilst the requirement of qualifying TET cannot be diluted in its rigour, we

[12] (2005) 3 SCC 752

cannot remain oblivious to the practical repercussions that may ensue if a substantial number of in-service teachers are put in jeopardy, due to the possible loss of their employment within a truncated time-frame, thereby adversely affecting the functioning of schools and, more importantly, the educational welfare of children at large.

THE RELIEF

32. Having regard to the paramountcy of ensuring continuity in elementary education of children, we deem it appropriate to grant limited relief by extending the period earlier stipulated for acquiring the TET qualification, again, in exercise of our power under Article 142 of the Constitution.

33. Appreciating that the TET examination must be conducted by the relevant authorities expeditiously as well as the time and resources required for the same are limited, we alter and extend the timeline granted in paragraph 217 of ***Anjuman*** (supra) for in-service teachers to acquire the TET qualification from 2 (two) to 3 (three) years, i.e., the qualification has to be obtained by 31st August, 2028 instead of 31st August, 2027, as originally directed.

34. Needless to observe, it shall also be the endeavour of the respective States and the competent authorities to conduct the TET periodically, and preferably twice every year, interspersed with an approximate period of six months between the successive examinations, so as to afford eligible

teachers a reasonable opportunity to comply with the statutory requirement.

35. We make it abundantly clear that no further prayer for extension of time shall be entertained.

CONCLUSION

36. With the aforesaid modification of the order under review, all the petitions stand dismissed.

.....J.
(DIPANKAR DATTA)

.....J.
(MANMOHAN)

NEW DELHI;
MAY 29, 2026.