

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/9/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.A. No.1299 of 2015

1. The Secretary to Government
School Education Department
Government of Tamil Nadu
Fort St.George
Chennai 600 009.
2. The Director of School Education
DPI Campus
College Road
Chennai 600 006.
3. The Chief Educational Officer
Saidapet
Chennai 600 015.
4. The District Educational Officer
Chennai East
Jayagopal Karodia Government
Higher Secondary School
Choolaimedu
Chennai 600 094.Appellants/Respondents 1 to 4

Vs

1. A. Firdose begum /Petitioner
2. The Correspondent
Murthuzaviya Oriental
Higher Secondary School
No.12/186 Big Street
Triplicane, Chennai 600 005. Respondents/5th Respondent

Writ Appeal filed under Clause 15 of the Letters Patent Appeal
against the order dated 3/6/2015 passed in M.P.No.1 of 2015 in
W.P.No.14072 of 2015.

M.P.No.1 of 2015: Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the respondents 1 to 4 to grant interim approval of the petitioner's appointment as B.T. Assistant (Science) in the 5th respondents Miniorty Aided School without insisting for passing of TET pending disposal of the writ petition.

Prayed to issue a writ of Mandamus directing the respondents 1 to 4 to grant approval of the petitioner appointment as B.T.Assistant (Science) in the fifth respondent Minority Aided School in view of verdict of Five Judges of Constitution Bench of Honourable Supreme Court of India dated 6.5.2014 in W.P.(C) No.1081 of 2013

For appellants : Mr.D.Krishnakumar
Special Government Pleader
(Education)
For respondents : Mrs.G.Devi

J U D G M E N T
(Delivered by SATISH K. AGNIHOTRI,J.,)

Assailing the interim order dated 3 June, 2015 passed in M.P.No.1 of 2015 in W.P.No.14072 of 2015, the State Government is before us.

2. For the sake of brevity and clarity, the parties are referred to as per their litigative status in the instant intra-Court appeal. With the consent of the parties, the matter is taken up for final disposal, at the admission stage itself.

3. The facts of the case in a nutshell are that the first respondent was appointed as B.T. Assistant in Science in Murthuzaviya Oriental Higher Secondary School, Triplicane, Chennai. The said School is stated to be a minority institution. The request for approval of her appointment was rejected by the State Government on the ground that she did not possess TET qualification, which is a pre-condition for appointment of teachers, under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (for short "the Act"). The learned Single Judge, while admitting the writ petition, directed the appellants to grant temporary approval for appointment of the first respondent in the second respondent school, pending disposal of the writ petition.

4. Be that as it may, the issue as to whether the provisions of the Act, will be applicable to a minority institution, is pending consideration in Aswinithanappan Vs. Director of Education and another.¹

1 (2014) 8 SCC 272

5. In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the writ petition, we are of the considered view that interest of justice would sub-serve, if the appointment of the first respondent is protected, without giving any direction to the State Government to grant temporary approval.

6. Mr.D.Krishnakumar, learned Special Government Pleader (Education) appearing for the appellants fairly submits that the first respondent shall not be terminated during the pendency of the said writ petition being W.P.No.14072 of 2015.

7. Accordingly, we direct that the first respondent shall be given her salary in the course of her employment and no steps to remove her from service shall be taken till the disposal of the writ petition. However, it is made clear that this order is subject to the final outcome of the pending writ petition. It is further made clear that the first respondent shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties, therein.

8. This intra-Court appeal is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

mvs

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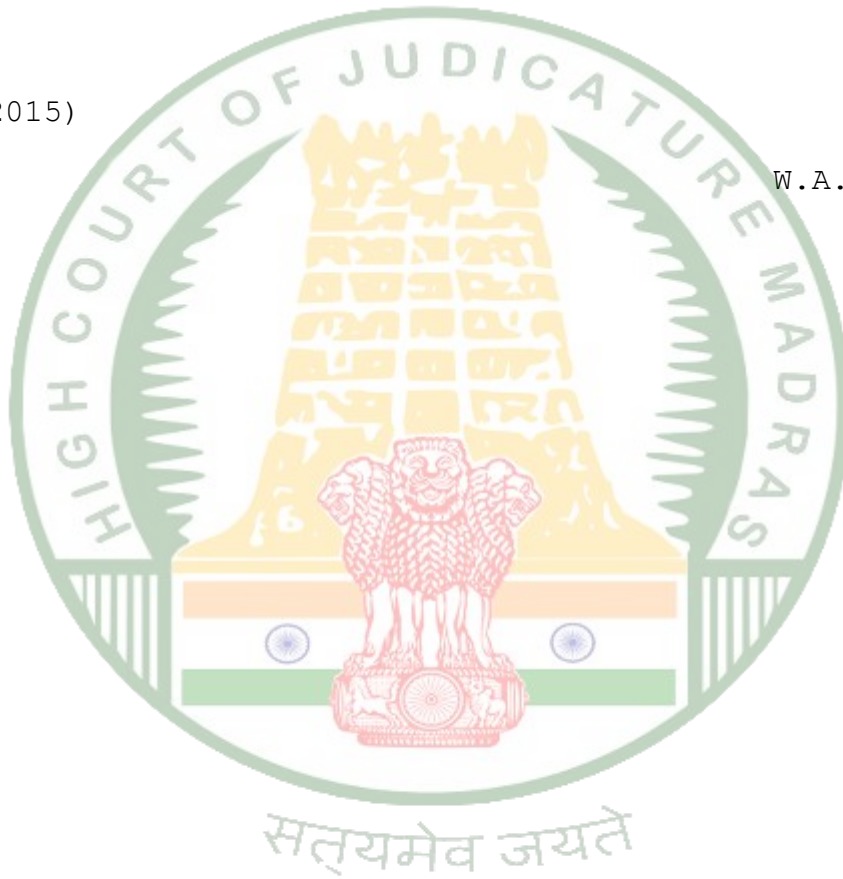
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+1cc to Mr.V. Raghupathi, Advocate, S.R.No.50079

JSV(CO)
EU(28/09/2015)

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