

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.1640 of 2015 and M.P. No.1 of 2015

- 1 The Government of Tamil Nadu
represented by its Additional
Chief Secretary
Department of School Education (C2)
Fort St. George
Chennai 600 009
 - 2 The Director of Elementary Education
D.P.I. Campus, College Road
Chennai 600 006
 - 3 The District Elementary
Educational Officer
O/o the District Elementary
Educational Officer
Vellore Fort, Vellore
Vellore District 632 004
 - 4 The Assistant Elementary
Educational Officer
O/o the Assistant Elementary
Educational Officer
Anaicut, Near B.D.O. Office
Vellore District
- Appellants/Respondent
- Vs.
- 1 A. Alphones Mary
Little Flower Aided
Elementary School
Pallikonda 635 809,
Vellore District
 - 2 The Correspondent
Little Flower Aided
Elementary School
Pallikonda 635 809,
Vellore District
- ..1st Respondent/petitioner
- ..2nd Respondents/5th Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 27.04.2015 passed in M.P. No.3 of 2015 in W.P. No.12572 of 2015.

Prayer in MP.3/2015: To direct the respondents to continue to pay salary to the petitioner working as Secondary Grade Assistant, in little flower Aided Elementary School, Pallikonda-635 809, Vellore District, w.e.f 16.6.11, based on the approval accorded on 24.2.2015, without reference to the condition completing TET Exam.

For appellants :Mr. K. Karthikeyan
Government Advocate

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The respondent filed the instant writ petition being W.P. No. 12572 of 2015, assailing G.O. (Ms.) No.181, School Education (C2) Department dated 15 November 2011 issued by the first appellant and also the consequential proceedings dated 24 February 2015 in Na.Ka.No.3543/AA2/2013 issued by the third appellant, insofar as it imposes a condition to complete Teacher Eligibility Test (for short "TET") examination on or before 31 March 2015 and to direct the appellants to accord permanent approval to her appointment as Secondary Grade Teacher in Little Flower Aided Elementary School, Pallikonda, Vellore District, which is allegedly a minority educational institution, with effect from 16 June 2011, with all service benefits. Along with the said writ petition, the respondent also filed M.P. No.3 of 2015 seeking a direction to the appellants to continue to pay salary to her with effect from 16 June 2011, based on the approval accorded on 24 February 2015, without reference to the condition of completing TET examination.

2 On 27 April 2015, the learned Single Judge passed an interim order, directing the appellants to continue to pay salary to the respondent, till the disposal of the writ petition. Feeling aggrieved, the appellants/State have preferred the instant intra-Court appeal.

3 The question of law involved in the writ petition is as to whether the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (for short "the Act") are not applicable to minority educational institutions. The condition of passing TET examination was introduced pursuant to the statutory requirement under the Act. The learned Single Judge, examining the decision of a Constitution Bench of the Supreme Court in Pramati Educational and Cultural Trust vs. Union of

India and Others¹, held that the provisions of the Act are not applicable to minority educational institutions. Accordingly, the learned Single Judge directed the appellants to continue to pay salary to the respondent working in minority educational institution, without insisting on TET qualification, till the disposal of the writ petition.

4 Prima facie, it appears that the provisions of the Act are not applicable to minority educational institutions. In such view of the matter, we do not find any error or irregularity in the order sought to be impugned in this appeal.

Accordingly, this intra-Court appeal is dismissed, reserving liberty to all the parties to raise all the points in the pending writ petition. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Additional Chief Secretary
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Vellore District

+ 1 cc to Government Pleader Sr.631868

W.A. No.1640 of 2015

KGK(CO)
EU 10.12.15