



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2015

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) .No.11441 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

N.Savithri

... Petitioner

-vs-

1. The District Educational Officer,
Pattukottai,
Thanjavur District.

2. The Correspondent,
Khadir Mohideen Girls Higher
Secondary School,
Adirampattinam 614 701
Thanjavur District

... Respondents

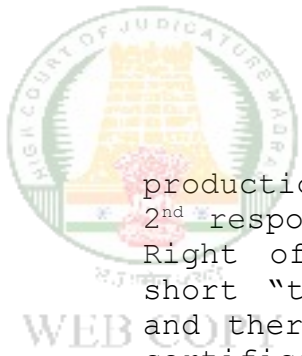
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus, calling for records pertaining to the proceedings issued by the first respondent in O.Mu.No.13287/A2/2013, dated 9.2.2013 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as B.T.Assistant (Tamil) in the second respondent School from 15.11.2012 with arrears of salary and with all monetary and attendant benefits with interest and without insisting upon the Teacher Eligibility Test.

For Petitioner : Mr.Veera Kathiravan

For Respondents : Mr.V.Muruganandam
Addl. Govt. Pleader

ORDER

The petitioner has filed this writ petition, seeking to quash the proceedings issued by the first respondent in O.Mu.No.13287/A2/2013, dated 9.2.2013 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as B.T.Assistant (Tamil) in the second respondent School from 15.11.2012 with arrears of salary and with all monetary and attendant benefits with interest and without insisting upon the Teacher Eligibility Test.



production of a pass certificate in TET. She has submitted that the 2nd respondent is a minority institution, that the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (in short "the Act, 2009") are not applicable to minority institutions and therefore, the 1st respondent should not persist to produce TET certificate. She has further submitted that the 1st respondent ought to have seen that the qualification of TET was prescribed by the Act, 2009 and the Rules framed thereunder and that the Larger Bench of the Hon'ble Apex Court in the case in Pramati Educational and Cultural Trust and others vs. Union of India and others reported in 2014 (4) MLJ 486 (SC) held that the Act, 2009 insofar as it is made applicable to minority schools, is ultravires of the Constitution. Therefore, since the Act itself is held as ultravires, the question of directing the petitioner to submit G.O., permitting the minority institutions to appoint a candidate without TET pass certificate does not arise. She also drew the attention of this Court stating that in other places, based on the interim direction granted by this Court for interim approval, teachers are working.

3. On the contrary, Mr.V.Muruganandam, learned Additional Government Pleader has contended that the petitioner has no *locus standi* to question the correspondence that had taken place between the 1st and 2nd respondents, vide which, certain details have been sought with regard to appointment / approval of the petitioner as B.T.Assistant. He has also contended that in the said communication, it was merely sought as to whether there is any Government Order in support of their contention that there is no requirement for the teachers, working in minority institutions to have a pass certificate in TET and therefore, the said correspondence / communication cannot be challenged by the petitioner in the writ petition.

4. In reply to the above, learned counsel for the petitioner has submitted that the petitioner is the concerned person and any order that is going to be passed by the 1st respondent will either benefit or affect the petitioner only. Learned counsel further submitted that in terms of the order of the Hon'ble Supreme Court in the case reported in (2014) 4 MLJ 486 (SC) (supra), the request of the petitioner has to be accepted by the respondents.

5. Heard the learned counsel on either side.

6. It is seen that the impugned order is only a communication from the 1st respondent to the 2nd School and it is true that the correspondence effected is in respect of the petitioner alone. Therefore, it cannot be said that the petitioner cannot have any interest or *locus standi*, as she is the person, going to be benefitted or affected in the event of any order being passed based on the said correspondence.

7. Therefore, this Writ Petition is disposed of directing the 2nd respondent herein to comply with the request of the District Educational Officer / 1st respondent herein with the assistance of the petitioner. The 1st respondent is in turn directed to take



note of the decision of the Hon'ble Apex Court and the guidelines mentioned therein and consider the case of the school within a period of 15 days from the date of submission of the proposal.

8. It is made clear that in case the decision quoted by the petitioner is applicable, the same may be applied to her case also and the decision shall be taken based on the available records and as per the law of the land within 15 days from the date of receipt of the proposal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O.)

\\True copy\\

Sub Assistant Registrar

To:

1. The District Educational Officer,
Pattukottai,
Thanjavur District.
2. The Correspondent,
Khadir Mohideen Girls Higher
Secondary School,
Adirampattinam 614 701
Thanjavur District

+1cc to Mr.Veera.Kathiravan Advocate Sr.No.36616

+1cc to The Spl.Govt.Pleader Sr.No.37068

akm/22.07.15 /3p-5c/

W.P. (MD) .No.11441 of 2015
07.07.2015