

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.1763 of 2015 and M.P. No.1 of 2015

- 1 The State Government of Tamil Nadu
represented by its Secretary
Education Department - Higher Education
Fort St. George
Chennai 600 009
- 2 The Director of School Education - Higher Education
Nungambakkam
Chennai 600 006
- 3 The Chief Educational Officer
Office of the Chief Educational Officer
Saidapet, Chennai 600 018
- 4 The District Educational Officer
Office of the District Educational Officer
Chennai East
Chennai

Appellants

Vs.

- 1 A. Dhanapal
- 2 The Correspondent
C.S.I. Kellet Higher Secondary School
Triplicane, Chennai 600 005

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 11.06.2015 passed in M.P. Nos.2 and 4 of 2015 in W.P. No.16493 of 2015.

WP.No.16493 of 2015:Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased

(i) to grant an order of injunction, restraining the fifth respondent from interfering with petitioner right to continue as a B.T.Assistant in Tamil, (in MP.NO.2/2015) pending disposal of the above Writ Petition.

(ii) To direct the second and third respondents herein to approve the appointment of the Petitioner made by the fifth respondent as a B.T.Assistant in Tamil Subject to conditions contained in G.O.(MS) NO.181 School Education (C2) Department dated 15.11.2011 (in MP.4/2015) pending disposal of the above Writ Petition 16493/2015.

For appellants Mr. K. Karthikeyan
Government Advocate(Education)

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

For the sake of brevity, clarity and convenience, the parties are referred to as per their litigative status in the instant intra-Court appeal.

2 The first respondent filed the instant writ petition being W.P. No. 16493 of 2015, assailing the order dated 16 November 2012 passed by the second appellant and consequently, direct the second and third appellants to approve his appointment as B.T. Assistant in Tamil under the second respondent school, which is allegedly a minority institution, by granting time limit extended vide G.O.Ms.No.181, School Education (C2) Department dated 15 November 2011 for acquiring pass in Teachers Eligibility Test (for short "TET"). Along with the said writ petition, the first respondent filed M.P. No.2 of 2015 seeking an order of injunction restraining the second respondent school from interfering with his right to continue as a B.T. Assistant in Tamil. M.P. No.3 of 2015 was also filed by the first respondent seeking a direction to the second and third appellants to approve his appointment made by the second respondent school.

3 On 11 June 2015, the learned Single Judge, while ordering notice, granted interim injunction and direction, as prayed for by the first respondent. Feeling aggrieved, the appellants/State have preferred the instant intra-Court appeal.

4 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 Others*¹, held that the provisions of the Act are not applicable to minority educational institutions and accordingly, granted interim injunction and direction, as prayed for.

5 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Secretary
Education Department - Higher Education
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+1 cc to the Government Pleader HighCourt Madras
sr.152

W.A. No.1763 of 2015

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