

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23432 of 2016
and
WMP.Nos.20111 & 20112 of 2016

V.Manoharan

.. Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of School Education
Fort St. George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The District Educational Officer,
Raja Veethi, Coimbatore - 641 001.
Coimbatore District.
- 4.The Correspondent,
C.S.I. Boys Higher Secondary School,
Coimbatore - 641 001.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 3rd respondent DEO in A.Thi.Mu.No.7938/a2/14 dated 19.01.2015 quash the same and further direct the 3rd respondent District Educational Officer to approve the petitioner's appointment as B.T. Assistant (Social Science) w.e.f. 23.06.2014 in C.S.I. Boys Higher Secondary School, Coimbatore District with all attendant benefits.

For Petitioner : Mr.P.Godson Swaminath

For Respondents : Mr.S.Diwakar
Special Government Pleader

ORDER

Heard Mr.P.Godson Swaminath, learned counsel appearing for the petitioner and Mr.S.Diwakar, learned Special Government Pleader accepting notice for the respondents 1 to 3 and since there is no conflict of interest between the petitioner and the 4th respondent, notice to the 4th respondent is dispensed with.

2. The petitioner was appointed as B.T. Assistant in Social
<https://hcservices.ecourts.gov.in/hcservices/>

Science in the 4th respondent institution which is an Aided Minority Institution. The issue in this writ petition relates to approval of the petitioner's appointment. The petitioner was appointed taking into consideration G.O.Ms.No.25, School Education (TRB) Department, dated 06.02.2014, in and by which, the Government permitted appointments of candidates who have secured 82 marks in the Teacher Eligibility Test (TET). After having been appointed by the 4th respondent/ Management, the proposal was forwarded to the 3rd respondent for approval. The 3rd respondent, by the impugned endorsement, dated 19.01.2015, has returned the proposal to the Management by stating that the petitioner has not secured 90 marks in the TET examination.

3.It has to be pointed out that G.O.Ms.No.25 was put to challenge before the Principal Bench as well as the Madurai Bench of this Court. The Hon'ble Division Bench at the Principal Seat in W.A.No.707 of 2014 etc. batch cases, dismissed all the Writ Appeals and upheld the validity of the G.O.Ms.No.25, dated 22.09.2014. In W.P.(MD).No.2677 of 2014 & W.P.(MD).No.4558 of 2014, the Hon'ble Division Bench of the Madurai Bench, by order dated 25.09.2014, allowed W.P.(MD)No.4558 of 2014 and dismissed W.P(MD).No.2677 of 2014 and set aside G.O.Ms.No.25. However, in respect of selections already made on the basis of G.O.Ms.No.25, the Hon'ble Division Bench observed that the appointments on the basis of the said Government Order shall not be affected. In other words, the order passed by the Division Bench was directed to be given prospective effect, in view of the fact that those who have reaped the benefit of the G.O.Ms.No.25 were not parties to the writ petition before the Madurai Bench. Therefore, either way the petitioner stands to benefit. Further, the Judgment of the Hon'ble Supreme Court in Pramati Educational and Cultural Trust and others Vs. Union of India and others, reported in (2014) 4 MLJ 486 (SC), this position will not have any impact on appointments made to Minority Educational Institutions. Therefore, the endorsement made by the 3rd respondent returning the proposal is incorrect.

4.It is further pointed out by the learned counsel for the petitioner that the 1st respondent, after examining the issues in detail, by letter dated 21.04.2015, prescribed the period of five years to pass Teacher Eligibility Test as minimum qualification as laid down by the NCTE for Teachers, who are working in aided and unaided schools from the date of issuance of G.O.(Ms).No.181, School Education Department, dated 15.11.2011 and the time limit to pass TET was extended up to 15.11.2016. However, in the light of the decision of the Hon'ble Supreme Court, it was held that the Act, 2009, has no applicability in so far as Minority Institutions are concerned. Hence, the TET introduced under the Act will not be applicable to Teachers appointed in Minority Educational Institutions.

5.Accordingly, the Writ Petition is allowed and the impugned endorsement dated 19.02.2015 made by the 3rd respondent is set aside and the 4th respondent/Management is directed to represent the proposal to the 3rd respondent, who shall take note of the above facts and the legal position and process the proposal so as to

enable the petitioner to get his appointment approved. On receipt of such proposal, the 3rd respondent is directed to approve the petitioner's appointment as B.T. Assistant (Social Science) in the 4th respondent School with effect from 23.06.2014 with all attendant benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS J)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary,
The State of Tamil Nadu
Department of School Education
Fort St. George, Chennai - 600 009.
 - 2.The Director of School Education,
College Road, Chennai - 600 006.
 - 3.The District Educational Officer,
Raja Veethi, Coimbatore - 641 001.
Coimbatore District.
 - 4.The Correspondent,
C.S.I. Boys Higher Secondary School,
Coimbatore - 641 001.
- +1 cc to Mr.P.Godson swaminath, advocate,sr.41193.
- +1 cc to Govt.Pleader,sr.40835.

gj(co)
krd 4/8

सत्यमेव जयते

W.P.No.23432 of 2016

WEB COPY