

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.16712 of 2014
and
M.P. (MD) .No.1 of 2014

G.Jaya Prince

... Petitioner

Vs.

1. The State of Tamilnadu
represented by its Secretary,
Department of School Education,
Fort St. George, Chennai -09.
2. The Director of School Education,
College Road, Chennai-06.
3. The Chief Educational Officer,
Kanyakumari District, Nagercoil 629 001.
4. The District Educational Officer,
Nagercoil 629 001, Kanyakumari District.
5. The Corporate Manager,
CSI Corporate Schools
CSI Diocese of Kanyakumari,
No.71 A, Dennis Street,
Nagercoil 629 001.
6. The Correspondent,
Ringle Thube Memorial Higher
Secondary School, Mylaudy,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the fourth respondent District Educational Officer to approve forthwith the appointment of the petitioner as BT Assistant in History in the sixth respondent school viz., Ringle Thube Memorial Higher Secondary School, Mylaudy, Kanyakumari District with effect from the date of his appointment on 02.04.2012 with all attendant benefits including the arrears of salary and allowance in the light of the judgment rendered by the Honourable Supreme Court in ***Pramati Educational and Cultural Trust and others vs. the Union of India and others*** reported in (2014) 4 MLJ 486 (SC).

For Petitioner : Mr.S.Xavier Rajini

For R1 to R4 : Mr.V.R.Shanmuganathan

Special Govt. Pleader

For R5 & R6

: No appearance.

**ORDER**

When the matter is taken up for hearing, both the parties fairly submitted that although the issue involved in the Writ Petition was already dealt with by the Apex Court, the main issue is still pending. By saying so, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the official respondents, produced a judgment, dated 14.09.2015, passed by a Division Bench of this Court in W.A.(MD).No.1299 of 2015 and submitted that, following the said judgment of the Division Bench, this Court has disposed of the Writ Petition in W.P.(MD).No.17878 of 2015, by order dated 05.07.2016.

2. At this juncture, it is necessary to extract below paragraph Nos.4 to 8 of the judgment, dated 14.09.2015, passed by the Hon'ble Division Bench in **W.A.No.1299 of 2015, dated 14.09.2015:-**

*''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 - (2014) 8 SCC 272.***

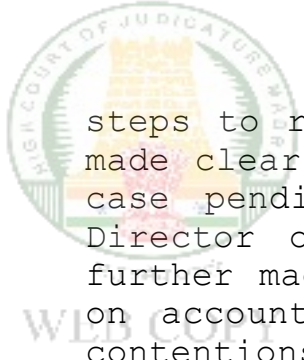
5.In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the Writ petition, we are of the considered view that interest of justice would subserve, if the appointment 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."

3. In view of the above, the Writ Petition stands disposed of with a direction to the official respondents to grant salary to the petitioner in the course of his employment, within a period of two weeks from the date of receipt of a copy of this order and no



steps to remove him from service shall be taken. However, it is made clear that this order is subject to the final outcome of the case pending before the Supreme Court in Aswini Thanappan Vs. Director of Education and another - (2014) 8 SCC 272. It is further made clear that the petitioner shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of School Education,
Fort St. George, Chennai -09.
2. The Director of School Education,
College Road, Chennai-06.
3. The Chief Educational Officer,
Kanyakumari District,
Nagercoil 629 001.
4. The District Educational Officer,
Nagercoil 629 001,
Kanyakumari District.

+1cc to MR.XAVIER RAJINI, ADVOCATE SR.NO. 43073

JA-GSV-PM-2.09.2016/3P:6C

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05.08.2016