

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 29.04.2016****CORAM:**

THE HONOURABLE MR. JUSTICE S. MANIKUMAR
and
THE HONOURABLE MR. JUSTICE S. S. SUNDAR

W.A. (MD) No. 849 of 2016**and****C.M.P. (MD) Nos. 5135 & 5136 of 2016**

1. The State of Tamil Nadu,
represented by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.
 2. The Director of Elementary Education,
Office of the Director of Elementary Education Office,
College Road,
Nungambakkam,
Chennai.
 3. The District Elementary Educational Officer,
Thoothukudi,
Thoothukudi District.
 4. The Assistant Elementary Educational Officer,
O/o. The Assistant Elementary Educational Officer,
Sathankulam Range,
Tuticorin,
Tuticorin District.
- ... Appellants

Vs.

1. B. Misba
 2. The Correspondent,
T.N.D.T.A. Primary School,
Kalvilai Pastorate, Kalvilai,
Thoothukudi,
Thoothukudi District.
- ... Respondents

PRAYER: Writ Appeal is filed under Clause XV of Letter Patent against the interim order dated 08.12.2015 in M.P. (MD). No. 2 of 2014 in W.P. (MD). No. 13167 of 2014.



Prayer in MP(MD). 2/ 2014 in WP(MD).13167/2014 :

To grant an Ad-Interim Stay of operation of Impugned Order issued by the 5th respondent in his Proceedings Nil dated 18.03.2014 pending disposal of the above WP(MD)No. 13167/2014.

Prayer in WP(MD). 13167/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order issued by the 5th respondent in his Proceedings Nil dated 18.03.2014 and quash the same as illegal and consequentially to direct the 3rd respondent to approve the petitioner s appointment as Secondary Grade Teacher in the 5th Respondent School w.e.f. 15.06.2012 without reference to Teacher Eligibility Test in conformity with the Judgment rendered by the Honourable Supreme Court in the case of Pramati Educational and Cultural Trust and others Vs. Union of India and others reported in (2014) 4 MLJ 486 (SC).

For Appellants	: Mr.VR.Shanmuganathan Special Government Pleader
For R1	: Mr.M.Ajmal Khan, Senior counsel

JUDGMENT

(Judgment of this Court was delivered by **S.MANIKUMAR, J.**)

In the present writ appeal, the challenge made is to the order passed by the writ Court, directing the appellants to grant temporary approval for appointment of the first respondent as Secondary Grade Teacher in the second respondent school till the date of disposal of the writ petition.

2. Learned counsel appearing for the parties in the appeal, have consented that, they are agreeable that the order passed in W.A.(MD) No.220/2016 dated 05.02.2016, be passed in the present appeal also, details of which are given below. Thus, by consent, the present appeal is taken up and disposed of.

3. On an earlier occasion, a similar Writ Appeal (MD)No.220 of 2016, filed by the State, has been considered and disposed of on 05.02.2016 by a Hon'ble Division Bench of this Court, to which, one of us (**SMKJ**) is a party.

4. Mr.M.Ajmal Khan, learned Senior counsel appearing for the first respondent/petitioner has consented for a similar order to be passed.



5. Inasmuch as the learned counsel for the first respondent/writ petitioner has consented for a similar order as made in W.A.(MD) No.220 of 2016, dated 05.02.2016, this Court deem it fit to extract the same and dispose of the Writ Appeal on the same lines:

“4. In a similar writ appeal filed by the State in the Principal Bench, a Division Bench of this Court has passed the following order 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 justice would sub-serve, 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. ”

6. By consent, Writ Appeal is disposed of on the same lines as ordered in W.A.(MD) No.220 of 2016 dated 05.02.2016. Having consented, appellants are directed to comply with the



orders. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

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To

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CSL/sks/RR/7.9.16-4p-5c

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