



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.16684 of 2016

and

M.P(MD)No.12133 of 2016

D.Vijaya

... Petitioner

vs.

- 1)The Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai-6.
- 2.The Chief Educational Officer,
Thoothukudi, Thoothukudi District.
- 3)The District Educational Officer,
Thoothukudi, Thoothukudi District.
- 4)The Correspondent,
Ambrose Higher Secondary School,
Meignanapuram-628 210,
Thoothukudi,
Thoothukudi District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in O.Mu.9529/A3/2012 dated 30.01.2013 quash the same and consequently direct the 3rd respondent to approve the appointment of the petitioner as B.T.Assistant (Mathematics) with effect from 15.06.2012 in the 4th respondent minority aided school without insisting for **TET pass certificate** and confer all the consequential benefits thereof.

For Petitioner : Mr.S.Thesigan

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

ORDER

When the matter is taken up for hearing, both the parties fairly submitted that although the issue involved in this Writ Petition was already decided by the Apex Court, the main issue is still pending. By saying so, learned Additional Government Pleader appearing for the official respondents produced an order passed by the Division Bench of this Court made in W.A.(MD).No.220 of 2016 dated 05.02.2016. Following the order of the Division Bench made in W.A.(MD).No.220 of 2016 dated 05.02.2016, this Court has disposed of the Writ Petition in W.P.(MD).No.17878 of 2015 dated 05.07.2016.

2. At this juncture, it is necessary to extract paragraphs 4 to 8 of the order passed by the Hon'ble Division Bench in **W.A.No.1299 of 2015, dated 14.09.2015**, which are given as under:-

'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**.

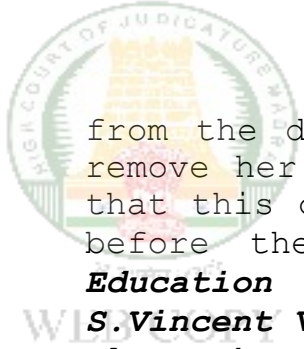
5.In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the Writ petition, we are of the considered view that interest justice would sub-serve, if the appointment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

3. In view of the above, the Writ Petition stands disposed of, with a direction to the official respondents to grant salary in the course of her employment within a period of two weeks



from the date of receipt of a copy of this order and no steps to remove her 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 and 2015 (2) CWC 195, S.Vincent Vs State of Tamil Nadu and two others**. 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. Needless to mention that such approval is subject to the students strength. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1) The Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai-6.
- 2) The Chief Educational Officer,
Thoothukudi, Thoothukudi District.
- 3) The District Educational Officer,
Thoothukudi, Thoothukudi District.

+1 cc to Special Government Pleader Sr.No.50064

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SMA/SKS-RR/19/10/2016 :3P/5C