



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2016

CORAM:

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THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.17193 of 2016

and

W.M.P(MD)Nos.12479 and 12480 of 2016

V.S.Jegan Mohan

: 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 Chief Educational Officer,
Ramnad, Ramnad District.
- 4.The District Educational Officer,
Paramakudi,
Ramnad District.
- 5.The Correspondent,
Sourashtra Higher Secondary School,
Paramakudi - 623 707,
Ramnad District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the fourth respondent, District Educational Officer in Na.Ka.No.3617/Aa3/2016 dated 29.08.2016, quash the same and further direct the fourth respondent, District Educational Officer, to approve forthwith the appointment of petitioner as B.T.Assistant (Science) in the fifth respondent school, namely Sourashtra Higher Secondary School, Paramakudi, w.e.f. the date of appointment viz., 01.06.2012 with all attendant benefits including the arrears of salary and allowance.

<https://hcservices.ecourts.gov.in/hcservices/>

For Petitioner

: Mr.T.Cibi Chakraborty



For Respondents : Mr.S.Chandrasekar,
1 to 4 Government Advocate.

O R D E R

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The proceedings of the fourth respondent, District Educational Officer, Paramakudi, Ramnad District, which is addressed to the fifth respondent viz., the Correspondent, Sourashtra Higher Secondary School, Paramakudi, Ramnad District, in which the fourth respondent has stated that the approval can be granted for appointment, only if the candidate passed the Teachers Eligibility Test, as per G.O.(Ms)No.181, School Education (C2) Department, dated 15.11.2011, is under challenge.

2.Mr.S.Chandrasekar, learned Government Advocate, takes notice for the respondents 1 to 4. By consent, the writ petition itself is taken up for final disposal.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4.

4.The petitioner is working as B.T.Assistant (Science) in the fifth respondent school, namely, Sourashtra Higher Secondary School, Paramakudi, Ramnad District. The fifth respondent school is a recognized, aided and linguistic Minority Educational Institution. With a view to improve the quality of education, the Government passed G.O.(Ms)No.181, School Education (C2) Department, dated 15.11.2011, prescribing that the candidate, who aspires to become a teacher, must pass Teachers Eligibility Test within a period of five years, as said in the Right to Education Act, 2009.

5.One post of B.T.Assistant (Science) in the fifth respondent school, fell vacant due to the promotion of the then incumbent, namely, Mr.M.M.Jegadeesan as P.G.Assistant (Chemistry) in the same school on 01.06.2012. In that vacancy, the fifth respondent school appointed the petitioner as B.T.Assistant (Science) w.e.f. 01.06.2012. When the fifth respondent school submitted a proposal to the fourth respondent viz., District Educational Officer, Paramakudi, Ramnad District, requesting to approve the appointment of the petitioner and disburse grand-in-aid towards the salary, the fourth respondent returned the proposal, directing the school to submit a proposal after the petitioner completing Teachers Eligibility Test.

6.Initially, under misconception of law, at the time when the Act was introduced, the school took a stand that the petitioner could be permitted to complete the Teachers Eligibility Test within a period of five years. Later on, the **Hon'ble Apex Court in Pramati Educational and Cultural Trust and others v. Union of India and others reported in (2014)4 MLJ 486 (SC)**, held that the Act, 2009



itself is not applicable to the Minority Educational Institutions. Only based on the said Judgment, now quashment and direction are sought for.

7.The necessity of the Private Minority Educational Institutions for complying with G.O.Ms.No.181, dated 15.11.2011, was considered in a batch of writ petitions by the Principal Bench of this Court in W.A.No.213 of 2016, on 24.08.2016, in which, it has been clearly held that G.O.Ms.No.181, dated 15.11.2011, issued pursuant to directions of NCTE, cannot be made applicable to the minority institutions. That Judgment has become final and therefore the proceedings issued by the fourth respondent viz., District Educational Officer, Paramakudi, Ramnad District, dated 29.08.2016, is quashed and the fourth respondent is hereby directed to approve the appointment of the petitioner as B.T.Assistant (Science) in the fifth respondent school with effect from the date of appointment, namely, 01.06.2012 within a period of four weeks, from the date of receipt of a copy of this order.

8.The Writ Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

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To

- 1.The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Ramnad, Ramnad District.
- 4.The District Educational Officer,
Paramakudi,
Ramnad District.
- 5.The Correspondent,
<https://hcservices.ecourts.gov.in/hcservices/>
Sourashtra Higher Secondary School,
Paramakudi - 623 707, Ramnad District.



+1 cc to Mr.T.CIBI CHAKRABORTHY ,Advocate, Sr.No: 51877

+1cc to M/S Special Government Pleader, Sr No. 51949

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JAM/SKS-RR/23.09.16/ 4P-8C

ORDER MADE IN
W.P (MD) No.17193 of 2016
and
W.M.P (MD) Nos.12479 and 12480 of 2016

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