

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.04.2017

CORAM

THE HONOURABLE MR.JUSTICE **T.RAJA**

W.P. No.7760 of 2017 and
W.M.P. No.8488 of 2017

P.M.Fayaz Ahmed

.. Petitioner

-VS-

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Education Department,
Fort St. George, Chennai-9.

2.The Director of School Education,
DPI Compound, College Road,
Chennai-6.

3.The Chief Educational Officer,
Vellore District.

4.The District Educational Officer,
Thirupattur, Vellore District.

5.The Correspondent,
Anaikar Oriental (Arabic)
Higher Secondary School,
M.C.Road, Ambur 635 802.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the fourth respondent vide Mu.Mu.No.3226/A4/2012 dated 09.11.2012 and quash the same in so far as condition No.1 to 4, insisting the petitioner to pass TET as

per G.O. Ms. No.181 dated 15.11.2011, within 5 years and direct the fourth respondent to sanction annual increment from 03.06.2013 onwards.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Rajendra Prasad,
Government Advocate
for R1 to R4

ORDER

This writ petition has been filed by the petitioner challenging *the* impugned proceedings passed by the fourth respondent vide Mu.Mu.No.3226/A4/2012 dated 09.11.2012.

2.The petitioner was appointed as Arabic Pandit in the fifth respondent Aided Religious Minority Institution on 31.05.2012. By proceedings dated 09.11.2012, the fourth respondent approved the appointment of the petitioner on the following conditions:

a)The petitioner shall pass TET within 5 years from the date of his appointment.

b)The petitioner will not be eligible for annual increment until he passes TET.

c)If the petitioner fails to qualify TET, within a period of five years, then, he shall quit his service as Arabic Pandit in the fifth respondent School.

3.Assailing the said impugned proceedings, learned counsel appearing for the petitioner would submit that the petitioner hails from a Backward Class Community and he passed Afzal-UI-Ulama in April 2006, which is equivalent to B.A. Oriental Arabic language and thereafter, he also underwent certificate course in Arabic Training and passed the same in September 2007, which is equivalent to B.Ed. He would further submit that in view of the Apex Court decision in the case of **Pramati Educational Cultural Trust and others vs. Union of India reported in 2014 (8) SCC 1** holding that the Right of Children to free and compulsory Education Act is not applicable to the aided minority institutions, the impugned proceeding is liable to be set aside. Adding further he would submit that neither the G.O. Ms. No.181, School Education (C2) Department dated 15.11.2011 is applicable to the Minority Institutions nor the District Educational Officer/the fourth respondent herein can refuse to grant the benefit of annual increments on the ground that the petitioner has not passed the TET.

4.Learned Government Advocate appearing on behalf of respondents 1 to 4 would agree that the settled legal position in the case of the **Pramati Educational Cultural Trust and others vs. Union of India reported in 2014 (8) SCC 1** is not supporting the impugned proceedings.

5.This Court finds merit on the submissions made by the

learned counsel for the petitioner. While considering the very same issue, this Court in W.P. Nos.44259 and 44260 of 2016 dated 02.01.2017, referring to the ratio laid down by the Hon'ble Apex Court in the case of **Pramati Educational Cultural Trust and others vs. Union of India reported in 2014 (8) SCC 1**, has set aside the impugned proceedings in so far as condition Nos.1 and 2 passed by the fourth respondent are concerned as bad. In view of the same, the impugned proceeding is liable to be set aside and the same is set aside. Accordingly, the fourth respondent is directed to sanction the annual increments, as per the settled legal position.

6.It is made clear that the order imposing conditions against the petitioner alone is set aside. The appointment order approving the petitioner's appointment shall hold good.

7.With the above observation, this writ petition is partly allowed. No costs. Consequently, connected W.M.P. is closed.

03.04.2017

vga

To

1.The Tamil Nadu Generation and
Distribution Corporation Ltd.,
rep. by its Chairman,
700, Anna Salai,
Chennai-600 002.

2.The Superintending Engineer,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
CEDC/South-II,
110 KV, KKSS Complex,
K.K.Nagar, Chennai-600 078.

T.RAJA,J.

vga

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03.04.2017

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