

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

Coram

The Honourable Mr.HULUVADI G.RAMESH,
ACTING CHIEF JUSTICE

and

The Honourable Mr.Justice M.SUNDAR

W.A.NOs.224 to 227 OF 2017
C.M.P.Nos.3788 to 3798 of 2017

1. The Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.
 2. The Chief Educational Officer,
Old Railway Station Road,
Erode - 638 001.
 3. The District Educational Officer,
Erode. ... Appellants in
all Writ Appeals
- versus
1. D.Solomon Prabhakar ... 1st Respondent in
WA 224 of 2017
 2. Tmt.D.Vennila ... 1st Respondent in
WA 225 of 2017
 3. T.G.Devasagayam ... 1st Respondent in
WA 226 of 2017
 4. D.Latha .. 1st Respondent in
WA 227 of 2017
 5. The Correspondent,
C.S.I. (Boys) Hr.Sec. School,
Erode - 638 001. .. 2nd Respondent in
W.A.No224 to 226/2017
 6. The Correspondent,
C.S.I. (Girls) Hr.Sec. School,
Erode - 638 001. ... 2nd Respondent in
W.A.No.227 of 2017

Prayer: These Writ Appeals are filed under Clause 15 of the Letters Patent, against the order passed by the learned single Judge of this Court in W.P.Nos.5631 to 5634 of 2015, dated 9.2.2016.

WP.No.5631/15: Writ petition filed u/a.226 of the Constitution of India, praying to issue writ of Certiorarified mandamus to Calling for the records pertaining to the order passed by the

3rd respondent in his proceedings O.Mu.No.8367/Aa3/2012 dated 26.7.2013 quash the same, and direct the respondents to approve the upgradation and appointment of the petitioner from the date of appointment and confer all the consequential benefits.

WP.No.5632/15: Writ petition filed u/a.226 of the Constitution of India, praying to issue writ of Certiorarified mandamus to Calling for the records pertaining to the order passed by the 3rd respondent in his proceedings Aa.Thee.Mu. No. 4558/A3/13 dated 18.7.2013 quash the same and direct the respondents to approve the upgrade and approve the appointment of the petitioner from the date of appointment and confer all the consequential benefits.

WP.No.5633/15: Writ petition filed u/a.226 of the Constitution of India, praying to issue writ of Certiorarified mandamus to Calling for the records pertaining to the order passed by the 3rd respondent in his proceedings O. Mu.No. 8528/Aa3/2012 dated 26.7.2013 quash the same and direct the respondents to approve the conversion of post of B.T. Assistant Maths to Science and appointment of the petitioner from the date of appointment and confer all the consequential benefits.

WP.No.5634/15: Writ petition filed u/a.226 of the Constitution of India, praying to issue writ of Certiorarified mandamus Calling for the records pertaining to the order passed by the 3rd respondent in his proceedings A.Thee.Mu. No.8789/A3/14 dated 30.12.2014 quash the same and direct the respondents to approve the appointment of the petitioner from the date of appointment and confer all the consequential benefits.

For Appellants : Mr.T.N.Rajagopalan
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by
THE ACTING CHIEF JUSTICE)

These Writ Appeals have been preferred against the order of the learned single Judge of this Court passed in W.P.Nos.5631 to 5634 of 2017, dated 9.2.2016, in and by which, the learned Judge, having followed the decision of the Hon'ble Apex Court in "Pramati Educational & Cultural Trust versus Union of India and others" reported in (2014) 8 SCC 1, held that the respondent 5 and 6 herein are the minority institutions, requirement of passing Teachers Eligibility Test (TET) is not required and rejection of the approval of the appointments of the teachers made by the respondents 5 and 6/minority institutions on that ground, cannot be sustained. As against the said order, the present Writ Appeals have been preferred.

2. Since the issue involved has already been covered by the decision of this Court, the present Writ Appeals are taken up for final disposal at the admission stage itself.

3. The issue involved in these Writ Appeals has been covered by the decision of the First Bench of this Court in "The Secretary to Government versus S.Jeyalakshmi" reported in 2016 (5) CTC 639 = 2016 (7) MLJ 155 = 2016 (4) LW 841, held that the teachers employed in aided and unaided minority schools need not possess TET qualification. It would be worthwhile to refer the relevant portion of the Judgment, which read as follows:

"58. In our opinion, non qualifying in TET by the Teachers already in service should not defeat the object of the Government to provide quality and standard education and therefore, the Government may, in the alternative, conduct a refresher course and also some interactive 43 sessions during annual vacation, in order to ensure and enhance the quality of education.

"59. Insofar as Minority Institutions are concerned, the contention of the learned Senior Counsel appearing for the Minority Schools is that when Tamil Nadu Recognized Private Schools [Regulation] Act, 1973, received the assent of the President of India and it is still in force, it cannot be supplanted by an Executive Order, namely, by G.O.Ms.NO.181, dated 15.11.2011. Further, the Apex Court has clearly held in "Pramati Educational and Cultural Trust" that RTE Act, 2009, is not applicable to the Minority Institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30[1] of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181, dated 15.11.2011 which was issued pursuant to the directions of NCTE, cannot be made applicable to the Minority Institutions.

"60. In the light of the above, we are of the view that the Government cannot insist upon the Minority Institution, both Aided and Unaided, to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School Education [C2] Department dated 15.11.2011, issued by the Government of Tamil Nadu, is not applicable to the Minority Institutions. Similarly, G.O.Ms.No.76, dated 18.03.2015 issued by the Government of Puducherry, is also not applicable to the Minority Institutions.

"61.....

"62. However, keeping in mind the larger interest in which the Government has issued the above G.Os., this Court feels that the Minority Institutions may also consider conducting a refresher course and also some interactive sessions to all the Teachers during annual vacation, in order to ensure and improve the quality of Teachers.

In the light of the ratio laid down by this Court in the above cited decision, these Writ Appeals fail and the same are dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

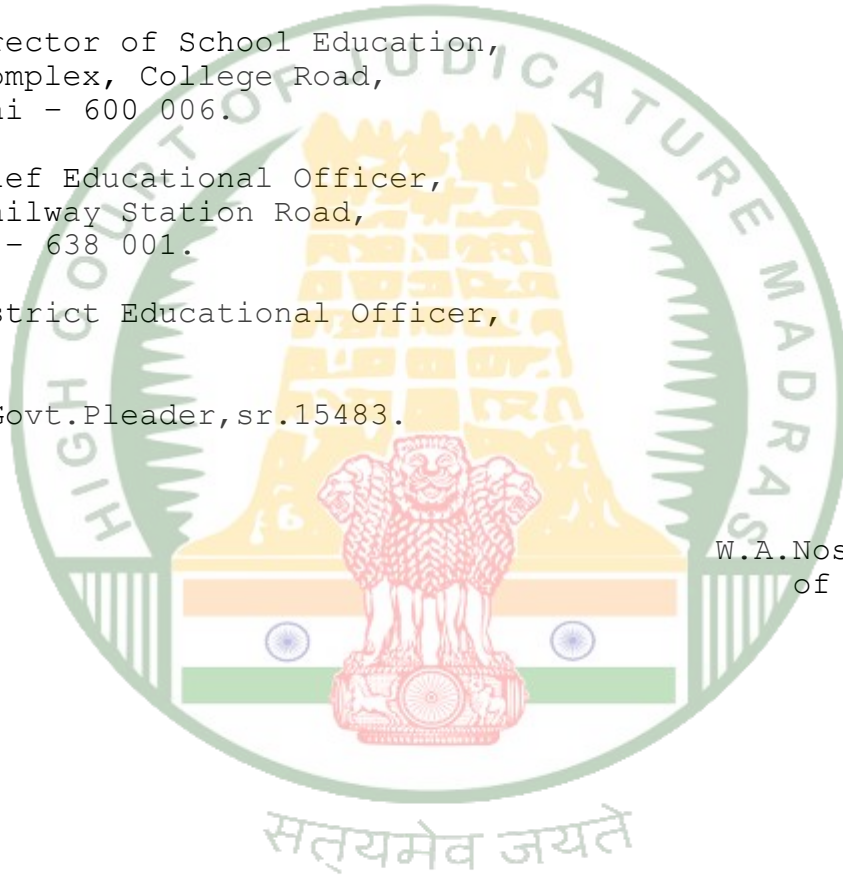
To

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