

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P. No.11003 of 2017 & W.M.P. No.11969 of 2017

S. Janatha

Petitioner

vs.

- 1 The State of Tamil Nadu
represented by its Secretary
Education Department
Fort St. George
Chennai 600 009
 - 2 The District Elementary Educational Officer
Villupuram District
 - 3 The Assistant Elementary Educational Officer
Villupuram District
 - 4 The Central Manager & Chairman
Danish Mission Elementary & Higher Elementary Schools
ALC Central Office
ALC Campus
Cuddalore 607 001
 - 5 The Correspondent
Danish Mission Elementary School
Koo-Kallakurichi
Ulundurpet
Villupuram District
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to approve the petitioner's appointment in the post of Secondary Grade Assistant from the date of initial appointment based on the proposal forwarded on 03.04.2017 with all consequential and other attendant benefits including payment of arrears of salary with interest, within a time frame.

For petitioner Mr. T. Dharani
For RR 1 to 3 Mr. P. Sanjay Gandhi
Additional Government Pleader

ORDER

With the consent of the learned counsel for the petitioner and the learned Additional Government Pleader appearing for

respondents 1 to 3, this writ petition is taken up for final hearing.

2 This writ petition has been preferred seeking a writ of mandamus directing the second respondent to approve the petitioner's appointment in the post of Secondary Grade Assistant from the date of initial appointment based on the proposal forwarded by the fifth respondent on 03.04.2017, with all consequential and other attendant benefits, including payment of arrears of salary with interest, within a time frame.

3 According to the learned counsel for the petitioner, the petitioner was appointed as Secondary Grade Assistant in the fifth respondent school, viz., Danish Mission Elementary School, Koo-Kallakurichi, which is run by the fourth respondent educational institution, in a vacancy caused by promotion and transfer of one David Selvakumar on 07.08.2013; thus, after having appointed the petitioner by following a proper selection procedure, the fifth respondent school forwarded a proposal dated 03.04.2017 to the second respondent seeking approval of her appointment in the post of Secondary Grade Assistant with effect from 07.08.2013; however, the second respondent returned the said proposal to the fourth respondent school with a direction to re-submit the proposal after rectification of defects; accordingly, the fourth respondent submitted a revised proposal to the third respondent, pursuant to which, the third respondent recommended to the second respondent for grant of approval of the appointment of the petitioner in the fifth respondent school; while so, when the petitioner approached the fourth respondent institution which administers the fifth respondent school, seeking status of the proposal for approval of her appointment, the petitioner was informed that the said proposal has been kept pending by the authorities since she has not passed the Teachers Eligibility Test (TET); hence, the petitioner has preferred this writ petition seeking the aforestated relief.

4 Heard both sides

5 The fourth respondent school, viz., Danish Mission Elementary and Higher Elementary Schools, is a minority aided educational institution. Therefore, the petitioner who is appointed in the fifth respondent school, administered by the fourth respondent institution, need not pass TET as per the judgment of the Supreme Court in Pramati Educational and Cultural Trust (Regd.) and Others vs. Union of India and others¹, inasmuch as, by the said judgment, the minority aided/unaided educational institutions are exempted from the applicability of provisions of the Right of Children to Free and Compulsory Education Act, 2009.

6 Following the proposition of law laid down by the Supreme Court in the aforesaid judgment, this Court also, in umpteen cases, has reiterated that teachers working in aided/unaided minority educational institutions need not pass TET.

7 In such view of the matter, the second respondent is directed to consider the proposal dated 03.04.2017 submitted by the fifth respondent minority school in respect of the petitioner's appointment, within a period of eight weeks from the date of receipt of a copy of this order, keeping in mind the fact that the respondents 4 and 5 are minority aided educational institutions exempted from the applicability of provisions of the Right of Children to Free and Compulsory Education Act, 2009.

This writ petition stands disposed of with the above direction. Costs made easy. Connected W.M.P. is closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Secretary
Education Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The District Elementary Educational Officer
Villupuram District
- 3 The Assistant Elementary Educational Officer
Villupuram District

+1 CC to Govt. Pleader sr 44764

+1 CC to Ms. T. Dharani, Advocate sr 44636

W.P.No.11003 of 2017

SKV(CO)
sp(13/07/2017)