

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Coram

Dated: 18.01.2017

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.1209 to 1211 of 2017
and W.M.P.Nos.1143 to 1145 of 2017

A.Rizwanulla ... Petitioner in W.P.No.1209/2017

H.K.Aadil Ahmed ... Petitioner in W.P.No.1210/2017

K.Anser Basha ... Petitioner in W.P.No.1211/2017

-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. ..Respondents 1 to 4 in
all the W.Ps.
5. The Correspondent,
Mazharul Uloom Higher Secondary School,
Ambur - 635 802
Vellore District. 5th Respondent in
W.P.Nos.1209 & 1210/2017
5. The Correspondent,
Anaikar Oriental (Arabic) Higher Secondary School,
Ambur - 635 802
Vellore District. ... 5th Respondent in
W.P.Nos.1211/2017

Writ Petitions have been filed under Article 226 of
the Constitution of India praying for the issuance of a Writ of

Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 4th respondent vide Mu.Mu.No.4958/A4/2012, dated 07.11.2012, Mu.Mu.No.4762/A4/2012 dated 07.11.2012 & Mu.Mu.No.3177/A4/2012 dated 09.11.2012 respectively and quash the same insofar as condition Nos. 1 to 4 insisting the petitioners to pass TET as per G.O.Ms.No.181 dated 15.11.2011 within 5 years and direct the 4th respondent to disburse salary to the petitioners from 01.01.2013 to 30.04.2014 and annual increment from 15.06.2012, 01.07.2012 and 05.06.2012 onwards respectively.

For Petitioners : Mr.S.N.Ravichandran

For Respondents : Mr.R.A.S.Senthilvel,
Additional Government Pleader

COMMON ORDER

By consent, the writ petitions are taken up for final disposal. Mr.R.A.S.Senthilvel, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

2. It is the claim of the petitioners that they are employed under Aided Minority Educational Institution. Though, at the time of appointment, they were directed to pass Teachers Eligibility Test, in terms of G.O.Ms.No.181 School Education (C2) Department dated 15.11.2011, in the light of the judgment reported in 2016(5) CTC 639 (The Secretary to Government, Government of Tamil Nadu, Education Department, Fort St.George, Chennai -9 and others Vs. S.Jeyalakshmi and others) they need not pass the test and in this regard, they also submitted a representation and since it was not considered, the writ petitions have been filed and however, unjustly, the 4th respondent has denied the salary payable to them from 1.1.2013 to 30.04.2014 and therefore, they are constrained to approach this Court by filing these writ petitions.

3. Learned counsel for the petitioners has drawn the attention of this Court to the order dated 02.01.2017 made in W.P.Nos.44259 & 44260 of 2016 (Ishrath Sultana & another vs. The Secretary to Government Education Department, Chennai-9 and 4 others) and would submit that this Court, in the said order has taken note of the decision reported in 2016(5) CTC 639 (The Secretary to Government, Government of Tamil Nadu, Education Department, Fort St.George, Chennai -9 and others Vs. S.Jeyalakshmi and others) and passed a positive order quashing the impugned proceedings of the 4th respondent dated 14.11.2012 and 03.10.2012 and insofar as the condition stipulated for passing Teachers Eligibility Test is concerned, the respondents are directed to confer all consequential benefits to the petitioners therein within a period of eight weeks from the date

of receipt of a copy of the order and communicate the decision taken to them. Since the petitioners herein are similarly placed like that of the petitioners in W.P.Nos.44259 & 44260 of 2016, similar orders may be passed.

4. Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader appearing for respondents 1 to 4 would submit that unless necessary proposal emanates from the 5th respondent, the request made by the petitioners cannot be considered.

5. This Court considered the rival submissions and perused the materials placed on record.

6. In the light of the decision reported in 2016(5) CTC 639 (The Secretary to Government, Government of Tamil Nadu, Education Department, Fort St.George, Chennai -9 and others Vs. S.Jeyalakshmi and others), 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 and the condition stipulated to the teachers who are governed under the Minority Institutions, to pass Teachers Eligibility Test, in terms of G.O.Ms.No.181 School Education (C2) Department dated 15.11.2011 is unsustainable and it is not applicable to the Minority Institutions. In the light of ratio laid down in the said judgment, Condition No.1 in the impugned orders, dated 07.11.2012, 07.11.2012 and 09.11.2012 respectively, alone is set aside and the 3rd and 4th respondents shall pass appropriate orders in accordance with law as to the claim of the petitioners for payment of salary for the period between 01.01.2013 to 30.04.2014 and the annual increment from 15.06.2012, 01.07.2012 and 05.06.2012 onwards respectively, within the period of eight weeks from the date of receipt of a copy of this order. It is made clear that the 5th respondent Institution shall conduct refresher course and also interactive sessions during the annual vacation and other holidays in order to ensure and improve the quality of teachers and the petitioners shall make every endeavour to improve their quality of teaching and bestow dedication and impart good and quality education to whom they are imparting education. The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-VI)

//True Copy//

Sub-Assistant Registrar

To

1. The 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.

+3 CCs to M/s. S.N. Ravichandren, Advocate sr 3587

+1 CC to The Govt. Pleader, High Court, Madras sr 3680

W.P.Nos.1209 to 1211 of 2017

MP (CO)
sp/6/2



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