

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.06.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.A. [MD].Nos.571 to 573 of 2017
and
C.M.P (MD) .No.4732 to 4736 of 2017**

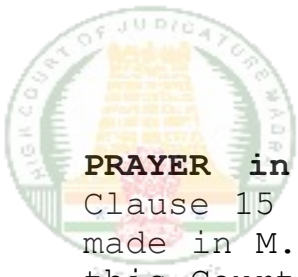
1. The State of Tamil Nadu
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
2. The Director of Elementary School Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Madurai, Madurai District.
4. The Additional Assistant Elementary Educational Officer,
Melur, Madurai District.
: Appellants/Respondents in W.A(MD).Nos.571,
572 & 573 of 2017

Vs.

The Correspondent,
R.C.Middle School,
Melur-625 106.
Madurai District. : Respondent/Petitioner in W.A(MD).No.571,
572 & 573 of 2017.

PRAYER in W.A(MD).No.571 of 2017: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 30.04.2013 made in M.P. No.2 OF 2013 W.P.(MD).No.7657 of 2013, on the file of this Court.

PRAYER in W.A(MD).No.572 of 2017: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 30.04.2013 made in M.P. No.2 of 2013 W.P.(MD).No.7660 of 2013, on the file of this Court.



PRAYER in W.A(MD).No.573 of 2017: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 30.04.2013 made in M.P. No.2 of 2013 W.P.(MD).No.7659 of 2013, on the file of this Court.

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Prayer in MP(MD). 2/ 2013 in WP(MD).7657/2013 :

To grant an Ad Interim orders directing the 3rd Respondent District Elementary Educational officer to approve the appointment of M.J.Sugitha as Secondary grade Teacher in the petitioner school W.e.f. the date of his appointment on 02.08.2012 with all attendant benefits within a reasonable time as may be prescribed by this Honble Court with a condition that she should pass the teachers eligibility test within 5 years from the date of appointment, pending disposal of the writ petition.

Prayer in WP(MD). 7657/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in Mu.Mu.No. 124/Aa/2013 dated 18.01.2013, Quash the same and further direct the 3rd Respondent District elementary educational officer to approve forthwith the appointment of M.J.Sugitha as Secondary Grade Teacher in the peitioner school w.e.f. the date of his appointment on 02.08.2012 with all attendant benefits including the arrears of salary and allowance.

Prayer in MP(MD). 2/ 2013 in WP(MD).7660/2013 :

To grant an Ad Interim Orders, directing the 3rd respondent District Elementary Educational Officer to approve the appointment of V.Kulandaisamy as Secondary Grade Teacher in the petitioner school w.e.f. the date of his appointment on 01.08.2011 with all attendant benefits within a reasonable time as may be prescribed by this Honourable Court with a condition that he should pass the Teachers Eligibility Test within 5 years from the date of appointment.

Prayer in WP(MD). 7660/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Proceedings issued by the 3rd respondent District Elementary Educational Officer in O. Mu.No.2926/A4/2012 dated 05.02.2013 and the consequential proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in Na.Ka.No.253/Aa/2013 dated 12.02.2013, quash the same and further direct the 3rd Respondent District Educational Officer to approve forthwith the appointment of V.Kulandaisamy as Secondary Grade



Teacher in the petitioner school w.e.f. the date of his appointment on 01.08.2011 with all attendant benefits including the arrears of salary and allowances.

Prayer in MP(MD). 2/ 2013 in WP(MD).7659/2013 :

TO grant an Ad Interim Orders directing the 3rd respondent District Educational Officer to approve the appointment of M. Maria Jona as BT Assistant English in the petitioner school w.e.f. the date of her appointment on 01.08.2011 with all attendant benefits within a reasonable time as may be prescribed by this Honble Court with a condition that she should pass the Teachers Eligibility Test within 5 years from the date of appointment, pending disposal of the writ petition.

Prayer in WP(MD). 7659/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court TO issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Elementary Educational Officer in O.Mu.No. 2926/A4/2012 dated 05.02.2013 and the consequential proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in Na.Ka.No. 253/Aa/2013 dated 12.02.2013, Quash the same and further Direct the 3rd respondent District Educational Officer to approve forthwith the appointment of M. Maria Jona as BT Assistant English in the petitioner school w.e.f. the date of her appointment on 01.08.2011 with all attendant benefits including the arrears of salary and allowance.

For Appellants : Mr.VR.Shanmuganathan in W.A.
Special Government

For Respondent : Mr.T.Cibi Chakbraborthy in W.A.

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.VR.Shanmuganathan, learned Special Government Pleader and Mr.T.Cibi Chakbraborthy, learned counsel for the respondent. By consent, the Writ Appeals are taken up for final disposal at the stage of admission itself.

2. These Writ Appeals are directed against the order dated 30.04.2013 made in W.P.(MD).No.7657, 7659 and 7660 of 2013. The issue involved in these Writ Appeals is as to whether the department can insist upon the passing of TET Examination in respect of the teachers, who are working in minority institution, like the employees working in the respondent institution herein. The issue involved in these Writ Appeals is no longer res integra and has been decided by the Division Bench in W.A.No.1299 of 2015,



dated 14.09.2015, wherein the Division Bench has held that the Department cannot insist upon passing of TET Examination in respect of the teachers, employed in the minority institutions. At this juncture, it would be beneficial to refer to the operative portion of the Judgment, which reads as follows:-

WEB COPY "The petitioners shall be given salary in the course of their employment within a period of four weeks from the date of receipt of a copy of this order and no steps to remove them from service shall be taken. However, it is made clear that this order is subject to the final outcome of the case pending before the Supreme Court in Aswini Thanappan Vs. Director of Education and another - (2014) 8 SCC 272, It is further made clear that the petitioners shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties".

3. Following the said decision, the present Writ Appeals stand dismissed on similar lines. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Department of School Education,
Fort St. George, Chennai-600 009.
2. The Director of Elementary School Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Madurai, Madurai District.
4. The Additional Assistant Elementary Educational Officer,
Melur, Madurai District.

+1cc to M/S. T.CIBI CHAKRABORTHY, Advocate, SR.No.58668.

JUDGMENT MADE IN
W.A. [MD]. Nos. 571 to 573 of 2017
and

C.M.P (MD) .No. 4732 to 4736 of 2017
05.06.2017