



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.06.2017

CORAM:

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

W.A. (MD) No.724 of 2017

Y.Kanagaraj
Secondary Grade Teacher,
TELC Middle School,
Paramakudi,
Ramanthapuram District.

...Appellant/Writ Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Elementary Educational Officer,
Ramanthapuram District.

4.The Additional Assistant Elementary Educational Officer,
Paramakudi, Ramanathapuram District.

5.The Correspondent,
TELC Middddle School,
Paramakudi,
Ramanathapuram District.

...Respondents/ Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order, dated 02.08.2016, made in W.P.(MD).No.23380 of 2015.

Prayer in WP(MD). 23380/ 2015 :

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 herein in O.Mu.No.890/A2/2014 dt.29.04.2014 and the subsequent proceedings issued by the 3rd respondent herein in Na.Ka.No.3170/A5/2014 dated 06.08.2014, quash the same, and further direct the 3rd respondent herein to approve petitioners appointment as Secondary Grade



Teacher in the 5th respondent school from 24.08.2012 onwards with salary and other attendant benefits.

For Appellant : Mr.E.V.N.Siva
For Respondents : Mr.V.R.Shanmuganathan
Spl. Govt. Pleader

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JUDGMENT

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

By consent, the writ appeal itself is taken up for final disposal.

Heard Mr.E.V.N.Siva, learned counsel appearing for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2. The issue involved in this writ appeal is squarely covered in the decision of writ appeal in the case of K.Solomon Jeyaraj vas. The Secretary, Department of School Education and four others in W.A.No.1437 of 2016, dated 25.11.2016. The operative portion of the judgment reads as follows:-

"7.It is relevant to extract the following paragraphs of the judgment of the Division Bench of this Court (cited supra):

"52. However, the Government, before issuing G.O.Ms.No.181 dated 15.11.2011, lost sight of one important fact, namely imposition 39 of a condition on the Teachers, who were appointed prior to the issue of G.O., in non minority and minority Schools, both aided and unaided, to qualify themselves with TET within a period of five years, in order to continue in service, would cause great hardship to them. Moreover, if the Teachers who have put in more number of years of service, could not pass TET within five years, their continuation in service would be in jeopardy. Further, it is seen that the percentage of pass in the TET examination conducted in 2012 and 2013 was very minimal.

...

56. We are, therefore, of the considered view that the Government may seek a clarification from the NCTE, in the light of what is stated in the preceding paragraph, whether the prescription of minimum qualification of TET can be made applicable prospectively for the Teachers who were appointed subsequent to the date of the issue of G.O., in both non minority and minority institutions and not retrospectively as the same would cause undue hardship to the Teachers who have been serving for a long time.

...



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.

...

60. In the light of the above, we are of the view that the Government cannot insist upon the minority institution, both aided or 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 18.3.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.

...

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."

8. In the light of the above said judgment, the Writ Appeal is allowed and the impugned order, which was subject matter of challenge in W.P.(MD) No.15952 of 2015 as well as the impugned order passed in W.P.(MD) No.15952 of 2015 dated 14.07.2016 are set aside. However, in the circumstances of the case, there shall be no order as to cost."

3. Thus, following the above referred decision, the writ appeal is allowed and the impugned orders, which was subject matter of challenge in the writ petition, are set aside. No costs.

sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The State of Tamil Nadu,
Rep. By its Secretary,

<https://hcservices.ecourtsonline.in/hcservices/>
Department of School Education,
Fort St. George, Chennai-600 009.



2.The Director of Elementary Education,
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3.The District Elementary Educational Officer,
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4.The Additional Assistant Elementary Educational Officer,
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5.The Correspondent,
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Paramakudi,
Ramanathapuram District.

+1cc to Mr.E.V.N.Siva,Advocate,SR.61055

+1cc to M/S.Special Government Pleader,SR.61632

W.A. (MD) No.724 of 2017
16.06.2017

DAS/AM

KK/SV MMS/SAR 1/30.06.2017/4P-8C