



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.898 of 2017

T.Susila

... Appellant/Writ Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort Saint George, Chennai-600 009.
2. The Director of Elementary Education
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
4. The Assistant Elementary Educational Officer,
Udangudi, Tuticorin District.
5. The Correspondent,
TNDTA Middle School,
Meiyur-628 203, Tuticorin District. ...Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 14.07.2016 made in W.P.(MD).No.15804 of 2015 on the file of this Court and allow the Writ Appeal as prayed for.

Prayer in WP(MD). 15804/ 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 3rd respondent DEEO in O.Mu.No.2717/Aa2/2012 dated 06.08.2012 QUASH THE SAME and further DIRECT the 3rd respondent herein to approve the petitioner's appointment as BT Assistant in the 5th respondent school w.e.f. 15.06.2012 with salary and other attendant benefits.

For Appellant

: Mr.A.Ajith Geethan

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.V.R.Shanmuganathan,
Special Government Pleader,

**JUDGMENT**

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

Heard Mr.A.Ajith Geethan, learned counsel appearing for the appellant, Mr.V.R.Shanmuganathan, learned Special Government Pleader, appearing for the respondents.

2.By consent, the Writ Appeal is taken up for final disposal.

3.This Writ appeal is directed as against the order dated 14.07.2016 made in W.P.(MD).No.15804 of 2015.

4.The petitioner is the appellant in this appeal, who is aggrieved by the dismissal of the writ petition by a common order dated 14.07.2016. One of the other writ petitioners, who were also covered in the same batch, preferred the W.A.(MD)No.1438 of 2016 (Helan Samraj Vs. The Secretary, Department of School Education) and the Division Bench of this Court, by a Judgment dated 25.11.2016, is allowed the appeal.

5.The operative portion of the said 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 quite 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.15958 of 2015 as well as the impugned order passed in W.P.(MD) No.15958 of 2015 dated 14.07.2016 are set aside. However, in the circumstances of the case, there shall be no order as to cost."

6. Following the above decisions, this Writ Appeal is allowed.
No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Secretary, State of Tamil Nadu,
Department of School Education,
Fort Saint George, Chennai-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>

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



3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4. The Assistant Elementary Educational Officer,
Udangudi, Tuticorin District.

+1 CC to M/s.A.AJITH GEETHAN, Advocate, SR No. 63057.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 63146.

MYR/IA

PSM/MR-KKR/SAR4/21.07.2017/4P/7C

JUDGMENT MADE IN
W.A. [MD] .No.898 of 2017
30.06.2017