



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.7647 of 2017
and

W.M.P.(MD) Nos.5963 and 5964 of 2017

The Correspondent,
Little Flower Higher Secondary School,
Crawford - 620 012,
Tiruchirappalli District.

... Petitioner

Vs.

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

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

3.The Chief Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

4.The District Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the fourth respondent District Educational Officer in O.Mu.No.6430-Aa1-2016, dated ---.12.2016, quash the same and further direct the fourth respondent District Educational Officer to approve forthwith the appointment of Sister A.Arockia Jeyaseeli as B.T. Assistant (History) with effect from the date of her appointment viz., 01.09.2016, with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Prabhu

<https://hcservices.ecourts.gov.in/hcservices> For Respondents : Mr.N.S.Karthikeyan,
Additional Government Pleader.

**ORDER**

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorari of Mandamus, to call for the records relating to the impugned proceedings issued by the fourth respondent District Educational Officer in O.Mu.No.6430-Aa1-2016, dated--12.2016, quash the same and further direct the fourth respondent District Educational Officer to approve forthwith the appointment of Sister A.Arockia Jeyaseeli as B.T. Assistant (History) with effect from the date of her appointment viz., 01.09.2016, with all attendant benefits, including the arrears of salary and allowance.

2.The petitioner, in this writ petition, is challenging the impugned order of the District Educational Officer, dated 17.03.2017, returning the proposals submitted by the petitioner for approval of the appointment of the above said teaching staff in the petitioner school.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4. It is admitted that the petitioner school is a private aided minority institution. It is stated that there are 14 teaching staff working in the petitioner school.

5.When one post of B.T Assistant (History) in the petitioner school fell vacant, due to the retirement of the previous incumbent of one Mrs. G.Savariammal, on 31.05.2015, in that vacancy, the petitioner school appointed one Sister A. Arockiya Jeyaseeli as B.T Assistant (History) on 01.09.2016 and pursuant to the said appointment, the petitioner school submitted a proposal to the District Educational Officer, namely, the 4th respondent herein for approval of the said appointment. However, by the impugned order, the 4th respondent returned the proposal on the ground that the petitioner school should produce an order of Court or Order of the Government stating that pass in Teachers Eligibility Test (TET) is not required for the said teacher, who is appointed in the petitioner school as B.T Assistant (History).

6.Though the Right of Children to Free and Compulsory Education Act, 2009 came into force with effect from 01.04.2009 and the National Council for Teacher Education (NCTE) issued notification dated 23.08.2010, prescribing pass in Teachers Eligibility Test as the minimum qualification for teacher to be appointed in the school upto elementary level, the Hon'ble Supreme Court in the case of **Paramati Educational and Cultural Trust Vs. Union of India** reported in 2014 (4) MLJ 486 held that the minority institutions have the right to establish and administer educational institutions of their choice and that the requirement



of pass in Teachers Eligibility Test (TET) cannot be insisted for appointment in minority school. In yet another case of **Society form for Unaided Private Schools of Rajasthan Vs. Union of India reported in 2012(6) SCC 1**, the Hon'ble Apex Court has categorically held that the Right of Children to Free and Compulsory Education Act is not applicable to Minority Institution and that the additional qualification of Teachers Eligibility Test introduced by a notification under the said Act is not required in the case of Minority Educational Institution.

7. This Court in many number of cases has held that while appointing teachers in minority institutions, Teachers Eligibility Test qualification should not be insisted. Hence, the reason assigned by the 4th respondent in returning the proposal is not sustainable. Similarly, the Division Bench of this Court in W.A.Nos.213 and 572 of 2016, dated 24.08.2016, has categorically held that G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011 insisting Teachers Eligibility Test as a qualification to all the Teachers, who are appointed after the issuance of the said G.O., cannot be made applicable to minority institutions.

8. The Hon'ble Division Bench of this Court, in the case of **Secretary to Government, Government of Tamil Nadu, Education Department and Others /Vs./ S.Jeyalakhmi and another- reported in (2016) 7 MLJ 155**, has reiterated that Right of Children to Free and Compulsory Education Act, 2009 is not applicable to the aided or unaided Minority School and further held that in respect of Minority Institution, the recruitment of pass in Teachers Eligibility Test as a minimum qualification for teachers cannot be insisted. Having regard to the legal issues settled by this Court, in different Judgments, this Court is bound to follow the same.

9. Hence, this Writ Petition is allowed and the impugned Order passed by the fourth respondent dated---.12.2016, signed on 17.03.2016 is set aside. The petitioner is directed to submit the proposal afresh within a period of two weeks from the date of receipt of a copy of this Order and on receipt of the proposal the 4th respondent is directed to approve the appointment of sister Arokiya Jeyaseeli, in the post of BT Assistant (History) with effect from 01.09.2016 and disburse the salary and other benefits in accordance with law within a period of four weeks thereafter. No Costs. Consequently, the connected W.M.P.(MD) Nos.5963 and 5964 of 2014 are closed.

Sd/-
Assistant Registrar(CS-III)

/True copy/

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

Sub Assistant Registrar



To

1. The Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

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

3. The Chief Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

4. The District Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

+1 cc to Mr.K.Prabhu for Isaac Chambers , Advocate in SR.No. 59610
+1 cc to Special Government Pleader in SR.No.59793

rm/gsp

AE/SV MMS/SAR3/27.06.2017/4P/7C

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