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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.1383 of 2013

and

M.P.(MD) No.1 of 2013

and

W.P.(MD) No.11957 of 2013

and

M.P.(MD) Nos.1, 2 & 3 of 2013

1. The Secretary to State of Tamilnadu
Department of School Education
St.George Fort, Chennai
2. The Director of School
Education Office of Director of School
Education College Road, Chennai-6
3. The Joint Director
Education (Higher Secondary)
Office of the Director of School Education
College Road, Chennai-9
4. The Chief Educational Officer
District Educational Office
Dindigul District
5. The District Educational Officer
Office of Educational Office
Dindigul District
... Appellants 1 to 5 in W.A.(MD) No.1383 of 2013 &
Respondents 1 to 5 in W.P.(MD) No.11957 of 2013
6. The Secretary
Teacher Recruitment Board
EVK Sampath Maligai
DPI Compound, College Road, Chennai-6
... 6th Appellant in W.A.(MD) No.1383 of 2013 &
7th Respondent in W.P.(MD) No.11957 of 2013

-vs-



2. The Correspondent
Infant Jesus High School
Maravapatty, Dindigul

... 2nd Respondent in W.A.(MD) No.1383 of 2013 &
6th Respondent in W.P.(MD) No.11957 of 2013

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PRAYER (in W.A.(MD) No.1383 of 2013) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 25.07.2013 in M.P.(MD) No.2 of 2013 in W.P.(MD) No.11957 of 2013, on the file of this Court.

PRAYER in MP(MD).2/2013 in WP(MD).11957/2013 : To pass suitable Ad Interim Order directing the 5th respondent District Educational Officer to approve the appointment of A.Shanthi Amutha as BT Assistant in Maths in the 6th Respondent school with effect from the date of her appointment of 13.7.2013 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.

PRAYER (in W.P.(MD) No.11957 of 2013) : Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings issued by the fifth respondent District Educational Officer in O.MU.No.3943/A4/2012, dated 26.02.2013, quash the same and further direct the fifth respondent District Educational Officer to approve the appointment of A.Shanthi Amutha as BT Assistant in Maths in the 6th respondent school with effect from the date of her appointment on 13.07.2012 with all attendant benefits including the arrears of salary and allowance.

For Appellants	:	Mr.V.R.Shanmuganathan
(in W.A.(MD) No.1383 of 2013)		Spl. Govt. Pleader
& For Respondents 1 to 5 & R7		
(in W.P.(MD) No.11957 of 2013)		
For Respondents	:	Mr.T.A.Ebenezer for R1
(in W.A.(MD) No.1383 of 2013)		R2 - No appearance
For 2nd Respondent	:	No appearance
(in W.A.(MD) No.1383 of 2013)		
& For 6th Respondent		
(in W.P.(MD) No.11957 of 2013)		
For Petitioner	:	Mr.M.John Robert Kennedy
(in W.P.(MD) No.11957 of 2013)		

J U D G M E N T

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

The writ appeal, in W.A.(MD) No.1383 of 2013, is directed against the interim order, dated 25.07.2013, made in M.P.(MD) No.2 of 2013 in W.P.(MD) No.11957 of 2013, by which an interim direction was issued to the appellants / respondents 1 to 5 and 7



and the second respondent / sixth respondent to grant temporary approval for the appointment of the first respondent / writ petitioner, who was appointed as a B.T.Assistant in Mathematics in the second respondent / sixth respondent - School.

2. It is submitted by the learned counsel on either side that the issue involved in the writ petition, in W.P.(MD) No.11957 of 2013, is squarely covered by the decision in **A.Firdose Begum v. The Secretary to Government, School Education Department, in W.P.Nos.14072 of 2015** etc., batch, dated 22.09.2016. In the said decision, the Division Bench allowed the similar batch of writ petitions with a direction to the Government to release the salary of the Teachers / petitioners therein.

3. At this juncture, it would be beneficial to refer the operative portion of the said order, which reads as follows:

"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 18.03.2015, issued by the Government of Puducherry, is also not applicable to the minority institutions.

61. Though the intention of the Government is that there should not be any discrimination among the Teachers working in non-minority Schools and minority Schools with respect to qualification and that there should be uniformity in the teaching imparted to the children, in view of the decision of the Apex Court in Pramati Educational & Cultural Trust, the Government cannot take shelter under the guise of discrimination to impose restrictions on 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.

63. In the result, the writ petitions are allowed and the writ appeals are dismissed with a direction to the Government to release the salary of the Teachers and also to pay the arrears of salary within a period of two months from the date of receipt of a copy of the order. There shall be no order as to costs. Consequently, connected M.Ps., are closed."



4. Since the issue involved in this matter is covered by the aforesaid decision in **A.Firdose Begum** (cited supra), we have called for the writ petition, in W.P.(MD) No.11957 of 2013, to be heard and disposed of along with this appeal and the same is also being disposed of accordingly.

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5. In the light of the above discussions, the writ appeal in W.A.No.1383 of 2013 preferred by the Government is dismissed and following the decision in **A.Firdose Begum** (cited supra), the writ petition, in W.P.(MD) No.11957 of 2013 is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to State of Tamilnadu,
Department of School Education,
St.George Fort, Chennai.
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6. The Secretary,
Teacher Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road, Chennai-6.

+1 cc to Mr.T.A.Ebenezer, Advocate, SR.No. 50343

W.A. (MD) No.1383 of 2013
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