

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 2.1.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1623 of 2017  
and  
C.M.P.No.21170 of 2017

- 1 The Government of Tamil Nadu  
Rep. by its Additional Chief Secretary  
The Department of School Education (C2)  
Fort St. George Chennai-600 009.
  - 2 The Director of Elementary Education  
DPI Campus College Road  
Chennai-600 006.
  - 3 District Elementary Educational Officer  
Gandhi Nagar 5th Street  
Thiruvannamalai District-606 601.
  - 4 Additional Assistant Elementary  
Educational Officer Kottamedu  
Polur-606 803 Thiruvannamalai District.
- Appellants
- Versus
- 1 Miss.M.Nirmala
  - 2 The Correspondent  
Sacred Heart Elementary School  
Polur-606 803 Thiruvannamalai District.
- Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 27.4.2015 passed in M.P.No.3 of 2015 in W.P.No.12571 of 2015 on the file of this court.

MP.No.3 of 2015 in WP.No.12571 of 2015:Petition presented to this Court to direct the respondents to continue to pay salary to the petitioner, working as Secondary Grade Assistant, in Sacred Heart, Elemntary School Polur 606 803 Tiruvannamalai District, w.e.f.5.6.2012 based on the approval accorded on

24/02/2015, without reference to the connection completing TET Exam (in MP.3/2015 in WP.12571/15)

WP.No.12571 of 2015:Petition presented to this court to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the impugned G.O.(Ms).No.181 School Education (C2) Department dated 15.11.2011 on the file of the 1st respondent and the consequential proceedings dated 24.2.2015 in Na.Ka. No.4198/AA4/2013 on the file of the 3rd respondent. in so far as it imposes an illegal condition to complete TET Exam on or before 31.3.2015 and quash the same in respect of the petitioner directing the respondents to accord permanent approval to the appointment of the petitioner Miss.Nirmala as Secondary Grade Assistant in Sacred Heart Elementary School Polur-606 803 Thiruvannamalai District w.e.f.5.6.2012 with all service benefits.

For appellants : Mr.P.S.Sivashanmugasundaram,  
Special Government Pleader

For R1 : Ms.A.Arul Mary for  
Dr.Fr.A.Xavier Arulraj

#### JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the appellants and Ms.A.Arul Mary, learned counsel appearing for the first respondent.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in a miscellaneous petition, giving direction to the appellants to continue the services of the writ petitioner and to pay her salary without insisting the TET qualification till the disposal of the writ petition.

3. It appears that the similar issue has been resolved in the case of SECRETARY TO GOVERNMENT v. S.JEYALAKSHMI ((2016) 7 MLJ 155) wherein it has been held 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. In the case on hand, the institution being a minority institution, the appellants cannot insist upon TET qualification for approving the appointment of the writ petitioner. Further, it appears that the order impugned in this writ appeal being one

passed in a miscellaneous application, subsequently, the writ petition itself had been disposed of by order dated 24.8.2016. Therefore, the writ appeal becomes redundant. Accordingly, the same is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Additional Chief Secretary  
The Government of Tamil Nadu  
The Department of School Education (C2)  
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- 5 The Correspondent  
Sacred Heart Elementary School  
Polur-606 803  
Thiruvannamalai District.

+1 cc to Mr.A.Arul Mary Advocate sr 79  
+1 cc to Govt Pleader sr 168

W.A.No.1623 of 2017

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aa29/01/2018