

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1603 of 2018
and C.M.P.No.12890 of 2018

- 1.The Government of Tamil Nadu
rep.by its Additional Chief Secretary,
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.The District Elementary Educational Officer,
Cuddalore, Cuddalore District.
 - 4.The Assistant Elementary Educational Officer,
Neyveli, Cuddalore District. ... Appellants
- vs-
- 1.P.Praveen Devakumar
 - 2.The Correspondent,
D.M.Middle School, Block-19
Neyveli-607 803, Cuddalore District. ... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in M.P.No.3 of 2015 in W.P.No.12677 of 2015 dated 27.04.2015.

Prayer in M.p.3/15 IN WP.12677/15:

To direct the respondents to continue to pay salary to the petitioner working as B.T.Asst(History), in D.M.Middle School, Block 19, Neyveli 607 803, Cuddalore District w.e.f 01/03/12 based on the approval accorded on 25.02.15, without reference to the condition completing TET Exam.

WP.NO.12677/2015:

Writ Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a Writ 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 25.2.2015 in Na.Ka. No.3569/A3/2013 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 as B.T. Asst. (History), D.M. Middle School, Block-19, Neyveli 607 803 Cuddalore Dist, w.e.f. 1.3.2012 with all service benefits.

For Appellants :: Mr.C.Munusamy, Spl.GP

JUDGMENT

(Delivered by M.DHANDAPANI, J.)

The matter is with regard to applicability of Right to Education Act, 2009 to the minority educational institutions. In the light of the dictum laid down by the Constitution Bench of the Hon'ble Supreme Court reported in (2014) 4 MLJ 486 (SC) [Pramati Educational and Cultural Trust and others v. Union of India and others] that the said Act is not applicable to the minority educational institutions, the learned single Judge passed an interim direction in M.P.No.3 of 2015 in W.P.No.12677 of 2015 along with other cases, directing the authorities / Government to continue to pay salary to the first respondent herein and others, without insisting the Teacher Eligibility Test qualification, till the disposal of the writ petitions, by order 27.04.2015. The appellants/ Government has come up with this appeal, challenging the interim passed in respect of W.P.No.12677 of 2015.

2.The learned Special Government Pleader appearing for the appellants has submitted that the learned single Judge has failed to consider the fact that G.O.Ms.No.181 dated 15.11.2011 had given a time limit of 5 years, but it is restricted to the existing employees who are appointed before the issue of the said Government Order and hence it will not enure to the benefit of a person like that of the first respondent herein, who entered the service after the said Government Order. It is also submitted that since the interim relief and the main relief prayed in the writ petition are similar, granting the interim relief will tantamount to allowing the main writ petition

itself. Stating so, he prayed for quashing the order passed by the learned single Judge in M.P.No.3 of 2015 in W.P.No.12677 of 2015 dated 27.04.2015.

3.This appeal has been filed only against the interim order passed by this Court. For the purpose of taking a decision in the matter, all the contentions have to be heard. This Court cannot hear the arguments on a piece-meal basis to arrive at a decision in respect of the order passed in the interim application. Hence, we direct the parties to appear before the learned single Judge by filing counter and pleadings and we request the learned single Judge to dispose of the writ petition on merits within a period of three months. All the contentions are left open to the parties to be urged before the learned single Judge.

4.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM
To

1. The Additional Chief Secretary,
The Government of Tamil Nadu,
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.The District Elementary Educational Officer,
Cuddalore, Cuddalore District.
- 4.The Assistant Elementary Educational Officer,
Neyveli, Cuddalore District.

+1cc to Government Pleader sr.no.54101

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and C.M.P.No.12890 of 2018

ss(co)
nr 05/09/2018