

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1820 of 2018 and CMP.No.14641 of 2018

1. The Government of Tamil Nadu
rep. by the Additional Chief Secretary,
Department of School Education,
Fort St. George, Chennai-9.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-6.
3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.
4. The District Educational Officer,
Office of the District Educational Officer,
Thiruvannamalai,
Thiruvannamalai District. ... Appellants

Vs

1. V.Sagayadass
2. The Correspondent,
Punitha Sagaya Annai Boys
Higher Secondary School,
Pavithram-606 806,
Thiruvannamalai District. ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 31.07.2015 made in M.P.No.3 of 2015 in W.P.No.7837 of 2015 by a learned Single Judge.

MP.3/2015: Petition praying that in the circumstance stated therein and in the affidavit filed therewith the High Court will be pleased to direct the respondents to pay salary to the Petitioner working as B.T. Assistant (History) in Punith Sagaya Annai Boys Higher Secondary School, Pavithram, Thiruvannamalai 606 806 w.e.f 06.06.2012 pending disposed of the above

W.P.NO.7837 of 2015: filed under Article 226 of the constitution of India praying 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 02.07.2013 in Na.Ka.No. 6644/A3/2012 on the file of the 4th respondent and quash the same in respect of the petitioner directing the respondents to approve the appointment of the petitioner V.Sagayadas as B.T.Assistant (History) in the 2nd respondent School;

For Appellants :: Mr.C.Munusamy, Spl.Govt. Pleader
For 1st Respondent:: Ms.A.Arulmary

JUDGMENT

(Judgment of the Court was pronounced
by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 31.07.2015 made in M.P.No.3 of 2015 in W.P.No.7837 of 2015 by a learned Single Judge.

2. The said Miscellaneous Petition has been filed by the petitioner/1st respondent herein for direction, directing the respondents therein to pay salary to him, working as B.T. Assistant (History) in Punitha Sagaya Annai Boys Higher Secondary School, Pavithram, Thiruvannamalai-606 806 w.e.f. 06.06.2012 pending disposal of the W.P.No.7837/2015. A learned Single Judge of this Court by order dated 31.7.2015 granted an interim order thereby directing the respondent authorities therein to give temporary approval to the appointment of the writ petitioner in the post of B.T. Assistant (History) in the 5th respondent school therein and to pay salary to him from the date of appointment till the disposal of the writ petition. Aggrieved over the same, the State is before this Court with this Writ Appeal.

3. Heard the learned Counsel on either side. We have also carefully perused the materials available on record.

4. At the outset, it is pertinent to note that in the order of the learned Single Judge dated 31.7.2015, it has been held as follows:

''3. The Hon'ble Apex Court in Pramati Educational and Cultural Trust v. Union of India, reported in AIR 2014 SC 2114, has held that the RTE Act is not applicable to Minority Educational Institutions and hence, TET qualification prescribed under the RTE Act cannot be insisted upon for appointment of Teachers in those institutions.''

That apart, while dealing with a similar issue in Secretary to Government, Government of Tamil Nadu, Education Department and others reported in (2016) 7 MLJ 155, a Division Bench of this Court has held that passing of TET by teachers is not compulsory and the Government cannot insist upon the minority institutions, both aided or unaided to abide by any regulation framed under provisions of Act, 2009 and further directed the Government to release salary and arrears of salary to those teachers. In that view of the matter, we are of the view that the present appeal filed by the State has become infructuous.

5. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
the Additional Chief Secretary,
Department of School Education,
Fort St. George, Chennai-9.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-6.
3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.
4. The District Educational Officer,
Office of the District Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.

+1 cc to Mr. Father Xavier Associates, Advocate Sr.59310
+1 cc to Mr. Government Pleader Sr.59303
+1cc to Mr. Father Xavier Associates, Advocate
Sr.59310 01/10/2018

W.A.No.1820/2018

AD(CO)
EU (01/10/2018)

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