



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.09.2018

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CORAM:
THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.18597 of 2018
and
WMP (MD) No.16456 of 2018

P.Loveline

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government,
Secretariat
Fort St.George,
Chennai - 9.

2.The Director of Elementary Education,
College Road,
Chennai - 6.

3.The District Educational Officer,
Formerly District Elementary Educational Officer),
Thoothukudi.

4.The Correspondent,
T.N.D.T.A. Middle School,
Pandaravilai,
Thoothukudi District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in Mu.Mu.No.681/A4/2015 dated 12.03.2015 and quash the portion of the order approving the petitioner from 19.08.2013 and consequent direction may be issued to the 3rd respondent to approve the petitioner's appointment as Graduate Teacher in 4th respondent school from the date of appointment on 14.06.2012 and to pay all the service and monetary benefits including arrears within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Ms.S.Srimathi
(R1 to R3) Spl.Govt.Pleader

For Respondent-4 : Mr.V.Karuna



O R D E R

The Writ Petition has been filed praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in Mu.Mu.No.681/A4/2015 dated 12.03.2015 and quash the portion of the order approving the petitioner from 19.08.2013 and consequent direction may be issued to the 3rd respondent to approve the petitioner's appointment as Graduate Teacher in 4th respondent school from the date of appointment on 14.06.2012 and to pay all the service and monetary benefits including arrears.

2. The case of the petitioner is that he was appointed as Graduate Teacher in the 4th respondent School, which is aided minority School run by CSI Thoothukudi Nazareth Diocese and he joined duty on 14.06.2012. At the time of appointment, the petitioner has not passed TET, since TET is not applicable to minority schools. The appointment of the petitioner was sought to be approved by the 3rd respondent, by the Management of the School and pending approval, he passed TET in August, 2013. Subsequently, the 3rd respondent passed an order of approval of appointment of the petitioner from the date of passing TET, which is on 19.08.2013. Therefore, the order of approval of appointment of the petitioner from 19.08.2013, passed by the 3rd respondent, dated 12.03.2015, is liable to be set aside.

3. I have heard the learned counsels appearing on either side and perused the materials available on record.

4. Under the erroneous application made by the 4th respondent with regard to approval for appoint of the petitioner in a minority school, orders have been passed by the 3rd respondent from the date of petitioner passing TET. Teachers working in minority educational institutions are not required to pass TET, however, the teachers must have necessary qualifications to be appointed as a teacher. For the wrong act committed by the 4th respondent resulted in an erroneous orders passed by the Educational Department, which is not sustainable in law, in the light of the Judgment of the Supreme Court in **Pramati Educational and Cultural Trust and Others Vs. Union of India and Others** reported in (2014 (4) MLJ 486). I hold that the impugned order of the 3rd respondent, dated 12.03.2015, is liable to be interfered with.

5. In the result, the Writ Petition is allowed and the portion of the impugned order, passed by the 3rd respondent, dated 12.03.2015, approving the appointment of the petitioner with effect from 19.08.2013, is set aside. If there are no legal impediments, the 3rd respondent is directed to approve the appointment of the petitioner as Graduate Teacher, in the 4th respondent School, from the date of his appointment i.e., on 14.06.2012 and to pay all the service and monetary benefits including arrears, which he is



entitled to, as early as possible. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O.)

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/True Copy/

Sub Assistant Registrar(CS IV)

mpk

To

1.The Secretary to Government,
State of Tamil Nadu,
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Fort St.George,
Chennai - 9.

2.The Director of Elementary Education,
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3.The District Educational Officer,
Formerly District Elementary Educational Officer),
Thoothukudi.

4.The Correspondent,
T.N.D.T.A. Middle School,
Pandaravilai,
Thoothukudi District.

1CC TO MR. T.A. EBENAZER, ADVOCATE SR 85056

1CC TO THE SPL GOVT PLEADER SR 85186

DS RSK SAR 4

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