



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 26.02.2018
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI
W.A. (MD) .No.1090 of 2017

K.Anita

.. Appellant /Writ Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary
Department of School Education,
Fort St.George, Chennai-600 009.

2. The Director of Elementary Education,
College Road, Chennai-600 006.

3. The District Elementary Educational Officer,
Madurai Distirct, Madurai.

4. The Assistant Elementary Educational Officer,
Usilampatti, Madurai District.

5. The Correspondent,
ELC Middle School,
Peraiyur Road, Usilampatti,
Madurai District-625 532.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.P.(MD).No.17999 of
2013 dated 02.08.2016.

Prayer in WP(MD). 17999/ 2013 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court To issue WRIT OF MANDAMUS directing
the 3rd respondent herein to approve forthwith the appointment of
petitioner as Tamil Pandit from 16.11.2010 in the 5th respondent
school with salary and other attendant benefits, (*) without
insisting pass in " Teacher Eligibility Test " and pass such
further or other suitable Order /Orders as this Hon ble Court may
deem fit.

(*) Prayer Amended as per Court order dated 15.12.2015.

For Appellant : Mr.E.V.N.Siva

For R1 to R4 : Mr.D.Muruganantham
Addl. Government Pleader

For R5 : No appearance

**JUDGMENT**

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

Heard MrE.V.N.Siva, learned counsel appearing for the appellant and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 to 4.

2.The appellant has filed this appeal challenging the order passed in W.P.(MD).No.17999 of 2013 dated 02.08.2016.

3.The appellant sought for issuance of a writ of mandamus to direct the third respondent to approve the appointment of the petitioner as Tamil Pandit from 16.11.2010 in the 5th respondent school with salary and other attendant benefits, without insisting pass in Teacher Eligibility Test.

4.The question which arises for consideration is as to whether the appellant was appointed in a minority Institution can be compelled to pass Teacher Eligibility Test. The same issue was decided in the case of **K.Solomon Jeyaraj v. The Secretary, Department of School Education and four others** in **W.A.No.1437 of 2016, dated 25.11.2016**. The operative portion of the judgment reads as follows:

"7.It is relevant to extract the following paragraphs of the judgment of the Division Bench of this Court (cited supra):

52.However, the Government, before issuing G.O.Ms.No.181 dated 15.11.2011, lost sight of one important fact, namely imposition 39 of a condition on the Teachers, who were appointed prior to the issue of G.O., in non minority and minority Schools, both aided and unaided to qualify themselves with TET within a period of five years, in order to continue in service, would cause great hardship to them. Moreover, if the Teachers who have put in more number of years of service, could not pass TET within five years, their continuation in service would be in jeopardy. Further, it is seen that the percentage of pass in the TET examination conducted in 2012 and 2013 was very minimal.

...

56.We are, therefore, of the considered view that the Government may seek a clarification from the NCTE, in the light of what is stated in the preceding paragraph, whether the prescription of minimum qualification of TET can be made applicable prospectively for the Teachers who were appointed subsequent to the date of the issue of



G.O., in both non minority and minority institutions and not retrospectively as the same would cause undue hardship to the Teachers who have been serving for a quite a long time.
..."

5. The aforesaid decision is followed in the case of **Y.Kanagaraj v. The State of Tamil Nadu, Rep by its Secretary, Department of School Education, Fort St. George, Chennai and others**, in **W.A(MD).No.724 of 2017 dated 16.06.2017**, in respect of another teacher, who was working in another School under the same Management, as that of the 5th respondent.

6. Thus, for the above reasons, the writ appeal is allowed as prayed for and the respondents are directed to approve the appellant's appointment as Tamil Pandit with effect from 16.11.2010, without insisting pass in Teacher Eligibility Test, within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary
Department of School Education,
Fort St.George, Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Madurai Distirct, Madurai.
4. The Assistant Elementary Educational Officer,
Usilampatti, Madurai District.

+1cc to Mr.E.V.N.Siva, Advocate Sr.No.51493
+1cc to Spl.Government Pleader Sr.No.51590

NS

VB/SV/MMS/SAR4/14/03/2018/3P/7C

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26.02.2018