

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                           |                            |
|---------------------------|----------------------------|
| Reserved on<br>04.12.2019 | Delivered on<br>06.12.2019 |
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.21182, 21183 of 2018 & 18280,18297,18308 & 31591/2019  
and  
WMP.Nos.17637,17641,17644,17649,17651,17656,17666,17669,17672,23  
458,26238,26239,26849,31793&31795 of 2019 & 24854,24856/2018

N.Malli

..Petitioner  
in W.P.No.21182 of 2018

M.Bharathi

..Petitioner  
in W.P.No.21183 of 2018

.Vs.

1.The Government of Tamil Nadu,  
Represented by Secretary,  
Education (Minority Language Wing),  
Department, Secretariat,  
Chennai 600 009.

2.The Director of Elementary Education,  
Chennai 600 006.

3.The Chief Educational Officer,  
Thiruvallur 602 601.

4.The District Educational Officer,  
Ponneri Education District,  
Ponneri 602 204.

5.Block Educational Officer-I,  
Gummidipoondi Block,  
Thiruvallur 601 201.

6.N.Murukan,  
B.T.Assistant (Maths),  
Panchayat Union Middle School,  
Padhirivedu West,  
Gummidipoondi Union,  
Thiruvallur District.

6.T.K.Hemachandran  
B.T.Assistant,  
Panchayat Union Middle School,  
Pallavada,  
Gummidipoondi Union,  
Thiruvallur District.

..Respondents  
in W.P.Nos.21182 & 21183 of 2018

PRAYER in W.P.Nos.21182 & 21183 of 2018:

Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the Fourth Respondent in his proceedings Na.Ka.No.1469/A1/2018 dated 13.06.2018 to 6<sup>th</sup> Respondent and in Na.Ka.No.1469/A1/2018 dated 13.06.2018 issued to 7<sup>th</sup> Respondent and to quash the same and direct the Respondents 1 to 5 herein to promote the Petitioner herein as BT Assistants (Maths) with effect from 13.06.2018 and to grant them all consequential service and monetary benefits within the time frame as fixed by this Court.

N.Malli ..Petitioner  
in W.P.No.18280 of 2019

M.Bharathi ..Petitioner  
in W.P.No.18297 of 2019

P.Kalpana ..Petitioner  
in W.P.No.18308 of 2019

.Vs.

The Government of Tamil Nadu,  
Represented by Secretary,  
Education (Minority Language Wing),  
Department, Secretariat,  
Chennai 600 009.

The Director of Elementary Education,  
Chennai-600 006.

The Chief Educational Officer,  
Thiruvallur-602 601.

The District Educational Officer,  
Ponneri Education District,  
Ponneri - 602 204.

The Block Educational Officer-I  
Gummidipoondi Block,  
Thiruvallur - 601201.

... Respondents 1 to 5 in WP.No.18280, 18297 and 18308/19

B.J.Latha,  
B.T.Assistant (Tamil)  
Panchayat Union Middle School,  
Pallavedu,  
Gummidipoondi Block,  
Thiruvallur District.

... 6<sup>th</sup> Respondent in WP.No.18280 to 18297/19

K.Sekar  
B.T.Assistant (Science)  
Panchayat Union Middle School,  
Vallambudukuppam,  
Gummidipoondi Block  
Thiruvallur District.

... 7<sup>th</sup> Respondent in WP.No.18280, 18297/19

C.Pushpa,  
Secondary Grade Assistant,  
Panchayat Union Primary School,  
Pudhur, Sathyavedu Post,  
Thiruvallur District.

B.Jaya Prakash,  
Secondary Grade Assistant,  
Panchayat Union Primary School,  
Chinna Sozhiyampakkam,  
Gummidipoondi District

... Respondents 6 & 7 WP.No.18308/19

(R6 & R7 are impleaded vide order of this Court 02/08/19 in WMP.20884/19 in WP.No.18308/19)

[R 6 & R 7 are impleaded vide order dt.02.08.2019, WMP.No.21101 of 2019 in WP.No.18297 of 2019)

Prayer in W.P.Nos.18280,18297 of 2019, 18308/19 :

Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd Respondent in his proceedings Na.Ka.No.13138//C1/2018 respectively dt.18.06.2019, quash the same and directing the Respondents herein to forthwith include the Petitioner at Sl.Nos.1& 2 in the combined Seniority List and Panel for promotion to the post of BT Assistant (Mathematics) in Gummidipoondi Block and promote her as BT Assistant (Mathematics) without prejudice to her right for retrospective empanelment and promotion, with all consequential benefits.

[prayer amended as per Order of this Court dt.30.10.2019 made in WMP.Nos.23454,23458 & /2019 in WP.No.18280, 18297 of 2019)

Prayer in WP.No.18308 of 2019:

Petition filed Under Article 226 of the Constitution of India praying this Hon'ble Court to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in and by Proceedings Na.Ka.No.13138/C1/2018 dated 18/06/2019 quash the same and direct the Respondents herein to forthwith include the Petitioner at Sl. No.2 in the combined Seniority list and Panel for promotion to the post of Secondary Grade Headmaster/Headmistress in Gummidipoondi Block and promote her as such with all consequential benefits.

1.K.Ravi

2.M.Dhatchayani

.. Petitioners  
in W.P.No.31591 of 2019

.Vs.

1.The State of Tamil Nadu,  
Rep.by its Secretary to Government,  
School Education Department,  
Secretariat, 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,  
Thiruvallur District,  
Thiruvallur.
- 4.The Block Educational Officer,  
Gummidipoondi Union,  
Thiruvallur District.
- 5.N.Malli,  
Headmaster,  
Panchayat Union Primary School,  
Keelamuthalambedu,  
Gummidipoondi Union,  
Thiruvallur District.
- 6.M.Bharathi,  
Headmaster,  
Panchayat Union Primary School,  
Karumbukuppam,  
Gummidipoondi Union,  
Thiruvallur District.

.. Respondents  
in W.P.No.31591 of 2019

PRAYER in W.P.No.31591 of 2019: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to revise the panel for promotion to the post of BT Assistant (Maths) for the year 2019 by excluding the names of 5<sup>th</sup> and 6<sup>th</sup> respondents, minority language teachers not qualified with Second Class Language Test in Tamil within the statutory time limit and consequently to prepare the panel in accordance with Rules by including the names of the Petitioners with consequential promotion to the post of BT Assistant by considering the representation submitted by the petitioner dated 21.06.2018, within a time frame to be fixed by this Court.

(In W.P.Nos.21182 & 21183/2018)

For Petitioners : Mr.M.Ravi

For Respondents : Ms.V.Annalakshmi for R 1 to R 5  
Government Advocate  
Mr.G.Sankaran for R 6 & R 7

(In W.P.Nos.18280,18297 & 18308/2019)

For Petitioners : Mr.M.Ravi

For Respondents : Ms.V.Annalakshmi for R 1 to R 5  
Government Advocate

Mr.S.N.Ravichandran for R 6 & R7  
for Mr.R.D.Ashok Kumar

(In W.P.No.31591/2019)

For Petitioners : Mr.G.Sankaran

For Respondents : Ms.V.Annalakshmi for R 1 to R 4  
Government Advocate

COMMON O R D E R

The issue involved in all the above writ petitions are common and the learned counsel appearing on either side agreed for hearing of the cases finally and accordingly all the above writ petitions are disposed of by this common order.

2.Initially W.P.No.21182 and 21183 of 2018 were filed by the respective petitioners challenging the proceedings of the respondents wherein the petitioners were omitted from the approved panel list of promotion to the post of B.T Assistant and their juniors were considered for the said promotion. While these writ petitions were pending, the Director of Elementary Education, Chennai, by his proceedings dated 18.06.2019, directed to draw separate seniority list and panel for Tamil teachers [who had Tamil Medium of Education] and Telugu teachers [who had Telugu Medium of Education] in all schools. These proceedings were challenged by the very same petitioners in W.P.No.18280 and 18297 of 2019. This was also challenged by one other petitioner Kalpana in W.P.No.18308 of 2019. In all these three writ petitions, impleading petitions were filed by two other candidates who were also seeking for the promotion and their impleading petitions were allowed and they were made as respondents in all the three writ petitions.

3.An independent writ petition came to be filed in W.P.No.31591 of 2019 wherein the petitioners therein are objecting to the inclusion of the petitioners in W.P.No.21182 and 21183 of 2018 and W.P.No.18280 and 18297 of 2019, being included in the panel for the post of B.T Assistant.

4.The brief facts of the case is that the petitioners in W.P.Nos.21182 and 21183 of 2018 have their mother tongue as Telugu. They were appointed as a Secondary Grade Teacher in the year 1997 and 1996 respectively; and both of them have passed Tamil language test conducted by TNPSC. Both of them were promoted to the post of Secondary Grade Headmistresses in the year 2007. Both their names were included in the panel for the promotion to the post of B.T. Assistant [Mathematics] in Gummidipoondi Block, Thiruvallur District. The name of the petitioner in W.P.No.21182 of 2018 from the year 2012 at Serial No.1 and the name of the petitioner in W.P.No.21183 of 2018 was added as Serial No.2 from the year 2017. It is the further case of the petitioners that every year their names were found in the panel for promotion to the post of B.T Assistant. In the year 2018, the names of both the petitioners were omitted and they were not considered for promotion to the post of B.T Assistant. Aggrieved by the same, both of them filed writ petitions challenging their omission.

5.The learned counsel for the petitioners submitted that no one had challenged the panel that was drawn, right through and the petitioners came to understand that their names were omitted only on the ground that their mother tongue is Telugu. The learned counsel submitted that the discrimination on the ground of mother tongue of the teacher and whether separate panel must be prepared for teachers having Tamil as the mother tongue and teachers having Telugu as the mother tongue, became an issue before this Court in T.P.Narayana and Others . Vs. Government of Tamil Nadu in W.P.Nos.1416 etc., of 2011. The learned counsel brought to the notice of this Court the relevant findings in the said order and the same is extracted hereunder:

''4. The petitioners in W.P.Nos.11340 and 21370 of 2011 are aggrieved by the non-inclusion of their names in the panel for promotion to the post of Headmasters of Elementary schools. The petitioner in W.P.No.1416 of 2011 is aggrieved by the cancellation of promotion already granted to him to the post of B.T. Assistant. The non-inclusion of the names of the petitioners in W.P.Nos.11340 and 21370 of 2011 and the cancellation of promotion of the petitioner in W.P.No.1416 of 2011, are all on the same ground, namely, that they were appointed to Telugu medium schools and that their mother tongue is Telugu and that therefore, they could not be promoted in Tamil medium schools.

5. While the petitioners in the above writ petitions stand on one side, the petitioner in W.P.No.21380 of 2011 represents an opposite view point. The petitioner in W.P.No.21380 of 2011 has come up with the above writ petition praying for preparation of a separate seniority list of those appointed to Tamil medium schools, for the purpose of promotion.

7. In certain areas of Tamil Nadu, bordering Andhra Pradesh, the local bodies or even the Government had earlier established schools where the medium of instruction was Telugu. To these schools, persons who had acquired the essential educational qualifications in Telugu medium were appointed. The petitioners in W.P.Nos.11340, 21370 and 1416 of 2011 represent a set of Secondary Grade Teachers who were so appointed in Telugu medium Panchayat Union Elementary Schools.

8. It is an admitted fact that the petitioners in the above three writ petitions are actually serving in Schools, which later became Tamil medium/bilingual schools. It is not the case of the respondents that the petitioners in these three writ petitions continue to teach only in Telugu medium schools till date, from the date of their appointment. One more factor to be taken note of is that the petitioners in these writ petitions are not language Pandits. They are teaching general subjects today, in bilingual/Tamil medium schools.

9. A controversy started brewing, after the issue of the Special Rules for the Tamil Nadu Elementary Educational Subordinate Service in G.O.Ms.No.1383, Education dated 23.8.1988. The Tamil Nadu Elementary Educational Subordinate Service was divided into six classes of service, with Class I comprising of two categories, Class II comprising of one category, Class III comprising of two categories and Classes IV to VI each comprising of one category of post. It will be useful to extract the Classes and categories of post covered by the said services

for a better understanding of the issue. Hence, it is extracted as follows:

Constitution - The Service shall consist of the following classes and categories, namely:-

| Class | Category                                                                           |
|-------|------------------------------------------------------------------------------------|
| I     | 1 Headmasters/Headmistresses of Middle Schools (B.Ed. Grade)                       |
|       | 2 Language Pandits Grade I (Tamil) and Language Pandits Grade I (other than Tamil) |
| II    | 1 Headmasters/Headmistresses of Middle Schools (Secondary Grade)                   |
| III   | 1 Headmasters/Headmistresses of Primary Schools (Secondary Grade)                  |
|       | 2 Secondary Grade Teachers                                                         |
| IV    | 1 Higher Grade Teachers                                                            |
| V     | Physical Education Teachers                                                        |
| VI    | Pre-vocational Instructors (Full-time)                                             |

10. Rule 2 of the Special Rules deals with appointments. Rule 3 names the appointing authority for these posts. Rule 4 makes the Rule of reservation covered by the General Rule 22 applicable to these posts. Rule 5 deals with appointments in institutions for minority languages. This Rule reads as follows:

"Appointments in Institutions for minority Languages:- A vacancy in the post of Headmaster/Headmistress in a middle or Primary school, especially provided for linguistic minority shall be filled up by transfer of any member of the same grade who is in possession of the respective language qualification and who may be employed at the time of the vacancy in an institution not specially provided for linguistic minority. When such transfer is not possible, a member who is in possession of the respective language qualification may be appointed by any method admissible under rule 2

above, but he shall not acquire by reason only of such appointment any right in the matter of seniority or full membership in such grade or transfer to a vacancy in such grade in an institution or establishment, not specially provided for linguistic minority or promotion, to a higher grade or category."

11. Rule 6(a) prescribes the qualification relating to age and Rule 6(b) prescribes the other qualifications. Rule 6(b) is of relevance and hence, it is extracted as follows:

"Other qualifications:- (i) No person shall be eligible for appointment to the service in the post specified in column (2) of Annexure, unless he possesses the minimum qualifications specified in the corresponding entry in column (2) thereof.

(ii) No person whose mother tongue is other than Tamil or who has not acquired knowledge of Tamil Language in his High School Course or who has not passed the second class language test in Tamil shall be eligible for appointment to any category in the service.

(iii) No person in the category of language Pandit Grade I (other than Tamil) namely Telugu, Urdu, Malayalam and Kannada shall be eligible for appointment to the post of Headmaster/Headmistress in the Middle Schools imparting instruction in Tamil. If the medium of instructions in the school is other than Tamil, i.e. Telugu, Urdu, Malayalam and Kannada, Language Pandit Grade I qualified in that Languages may be appointed as Headmaster in that particular School."

12. It is seen from the Table in the Annexure to the Special Rules that for promotion to the post of Headmasters of Primary Schools (Class III of the Service), the method of recruitment is by way of transfer. The qualification prescribed is that the candidate should be a trained teacher certificate holder of the Secondary Grade or a senior basic grade trained teacher certificate awarded by the Government of Tamil Nadu or its equivalent. Therefore, if a person satisfies the requirements prescribed in the Table given in

the Annexure to the Special Rules, he is entitled to appointment, subject however to the qualifications prescribed in Rule 6(b), which is extracted above.

13. A perusal of Rule 6(b)(ii) would show that no person whose mother tongue is other than Tamil or who has not acquired knowledge of Tamil language in his High School course or who has not passed second class language test in Tamil shall be eligible for appointment in any category of service. Therefore, persons to be appointed to any of the posts in the service should satisfy any of these three qualifications, one of which is a pass in a second class language test, if the mother tongue of the person concerned is other than Tamil. Even Rule 5 is of the same import.

14. Rule 5 of the Special Rules came up for consideration before the Tamil Nadu Administrative Tribunal in O.A.No.1953 of 1989. By a judgment dated 09.10.1990, the Tamil Nadu Administrative Tribunal held that as per the Special Rules, there must be only a single seniority list for all teachers, irrespective of the medium of instruction, provided they satisfy the requirements of the Rules. The said decision of the Administrative Tribunal was approved by a Division Bench of this Court in W.P.No.19856 of 2004 by a judgment dated 03.02.2009.

15. Following the said decision, another learned Judge of this Court also passed similar orders in respect of teachers who were appointed to Telugu medium schools in W.P.No.9684 of 2009 dated 17.3.2010.

16. Insofar as the cases of the petitioners in the first three writ petitions are concerned, admittedly, all of them had passed the second class language test in Tamil as per the General Rules. Therefore, Rule 6(b)(ii) stands satisfied in the case of the petitioners. As a matter of fact, the petitioners are actually teaching in bilingual/Tamil medium schools, as on date. They are not even language Pandits. They are teaching general subjects. Therefore, their claim for

inclusion in the panel, is justified, provided they satisfy the other conditions.

16. In view of the above finding, the writ petition filed by the Tamil medium teacher, namely, W.P.No.21380 of 2011 cannot be ordered as the prayer therein runs contrary to the Special Rules and the decision of the Division Bench of this Court. Hence, W.P.No.21380 of 2011 is dismissed. W.P.Nos.1416, 11340 and 21370 of 2011 are allowed. However, there shall be no order as to costs. Consequently, M.P.Nos.2 and 4 of 2011 in W.P.No.11340 of 2011 are closed.

6.The learned counsel by reading the findings given by this Court, submitted that only a single seniority list for all the teachers, irrespective of the medium of instructions, should be prepared provided they fulfill the other requirements in the relevant rules. The learned counsel also submitted that the above order has been violated by the respondents by discriminating the petitioners on the ground that their second language is Telugu and their medium of instruction is Telugu.

7.The learned counsel for the petitioners submitted that subsequent to the above order, the Director of Elementary Education, Chennai, implemented the directions given by this Court for drawl of combined seniority panel by proceedings dated 23.07.2012. Therefore, the petitioners were hopeful that the petitioners will be promoted to the post of B.T Assistant. At that point of time, another impugned order came to be passed by the Director of Elementary Education on 18.06.2019, directing for preparation of separate seniority list for Tamil and Telugu teachers and the said proceedings were challenged by filing three more writ petitions and the proceedings were also stayed by this Court.

8.The learned counsel concluded his arguments by submitting that the controversy regarding the preparation of a single seniority list has been cleared by this Court and it has also been implemented by the proceedings of the Director of Elementary Education dated 23.07.2012 and the names of the petitioners were also continuously found in the panel and therefore, the proceedings of the Director of Elementary Education requires interference and the names of the petitioners must be added in the panel and they must be considered for the promotion to the post of B.T Assistant.

9.The learned counsel for the petitioner in W.P.No.18308 of 2019 submitted that this petitioner is also placed on the same footing to that of the other writ petitioners and the name of this petitioner was also added in the panel and she was awaiting for promotion to the post of Secondary Grade Headmaster/Headmistress and she was also discriminated on the ground that her second language is Telugu and her medium of education is Telugu.

10.Mr.S.N.Ravichandran, learned counsel appearing for the petitioners in all the impleading petitions submitted that due to the stay granted by this Court, the entire promotion process came to a stand still and therefore, vacate stay petitions were filed. The learned counsel further submitted that the petitioners are not entitled to be considered for promotion since they have completed the Tamil language test beyond two years and in total violation of sub rule(b) of Rule 12(A) of the Tamil Nadu State and Subordinate General Rules.

11.Mr.G.Sankaran, learned counsel for respondents 6 and 7 in W.P.Nos.21182 and 21183 of 2018 and the petitioner in W.P.No.31591 of 2019 submitted that the above writ petitioners had completed the Tamil test conducted by TNPSC after two years in violation of sub rule(b) of Rule 12(A) of the Tamil Nadu State and Subordinate General Rules, and therefore, they are not even eligible to be included in the promotion panel. The learned counsel further submitted that objections have already been given to the authorities in this regard. The learned counsel brought to the notice of this Court the fact that the names of the writ petitioners have been shown above the writ petitioners in W.P.No.31591 of 2019 in the panel that was prepared on 01.01.2019 and the said preparation of panel is illegal. The learned counsel submitted that the Director of Elementary Education by his proceedings dated 05.07.2019, has made it very clear that any person who does not clear the Tamil test within two years should not be considered for any further promotions.

12.In reply to the submissions made by Mr.G.Sankaran, Mr.M.Ravi, who appeared for respondents 5 and 6 in this writ petition submitted that the addition of the names of these respondents in the panel every year continuously, has not been challenged till date and the present writ petition which has been filed only for a mandamus, cannot be used to indirectly challenge the panel and this writ petition itself has been filed only to somehow stop the respondents from being considered for promotion to the post of B.T Assistants.

13. Mrs. V. Annalakshmi, learned Government Advocate appearing on behalf of the official respondents who have filed counter in all the writ petitions except W.P.No.31591 of 2019, submitted that the order passed by this Court in W.P.Nos.1416 etc of 2011 has been implemented in letter and spirit by the Director of Elementary Education, Chennai, by his proceedings dated 23.07.2012, and a common seniority list and the promotion panel is prepared and the claim of the petitioners will also be considered strictly in accordance with the rules. The learned counsel submitted that a similar issue came up before this Court in W.P.No.13192 of 2013, and the specific stand that was taken by the authorities was also recorded by this Court. The relevant portion of the order was brought to the notice of this Court and the same is extracted hereunder:

"3. The learned counsel for the petitioners submitted that the petitioners are fully qualified and eligible for promotion to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools, however, they were not yet given promotion by the respondents. In spite of several representations made by the petitioners, the respondents 3 & 4 have not yet taken any steps to include the names of the petitioners in the appropriate panel based on their seniority and eligibility by preparing combined seniority list of both Tamil and Telugu Medium Teachers. He also produced a copy of the order dated 17.03.2010 passed in W.P.No.9684 and 1019 of 2009 before this Court.

4. The learned Government Advocate appearing for the respondents 1 to 4 submitted that in paragraph Nos.8 & 9 of the counter affidavit, the third respondent has stated as follows:

"7. I respectfully submit that as per the Special Rules, the secondary grade teachers who are working in Tamil Medium Schools are eligible for promotion to the post of Primary School Headmaster in Tamil Medium Primary Schools as well as in bilingual schools as per the combined seniority. On the other hand, the Telugu Medium Secondary Grade Teachers, who are working in Telugu Medium Schools are eligible for promotion in bilingual elementary schools as per the combined seniority. Therefore, a separated seniority list for the

Tamil and Telugu Medium teacher is being drawn in addition to the combined seniority list.

9. I respectfully submit that in the State of Tamil Nadu, at Pallipattu Panchayat Union, Thiruvallur District, there are two Assistant Elementary Educational Officers functioning, one is designated as AEEO (Tamil) for Tamil Schools and the other being AAEEEO (Telugu) for Telugu and Bilingual Schools. Similarly, in Dharmapuri and Krishnagiri District, there are bilingual schools, which follow separate seniority list for Tamil and Telugu Secondary Grade Teachers for promotion to the post of Headmaster of Elementary Schools. There cannot be any arbitrariness in drawing such separate seniority list. As mentioned above, teachers who studied in Telugu Medium cannot be expected to effectively discharge the post of Headmaster of Elementary Education inasmuch as it involves effective interaction in Tamil with various other departments in the State. In other words, it at least requires fluent writing in Tamil and that cannot be expected from the writ petitioners because their mother tongue is only Telugu. In any event, Secondary Grade Teachers in Telugu will not lose their opportunity to get promoted because there are 24 Pure Telugu Schools and 11 Bilingual Schools in Pallipattu Union. In these schools, the petitioners could be accommodated on promotion. Under those circumstances, the petitioners cannot have any grievance in drawal of separate seniority for both Tamil and Telugu Secondary Grade Teachers.".

4.1 The learned Government Advocate appearing for the respondents 1 to 4 would contend that the petitioners herein have not satisfied the other conditions for the inclusion of their names in the panel as stated in the order passed by this Court in W.P.Nos.1416 of 2011 etc., batch.

5. The learned counsel appearing for the respondents 5 to 13 submitted that the petitioners' name will be included in the combined seniority list prepared for promotion to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools and

the petitioners will not lose their opportunity to get promoted because there are 24 Pure Telugu Schools and 11 Bilingual Schools in Pallipattu Panchayat Union, Thiruvallur District as stated by the third respondent in the counter affidavit.

6. The statement made by the learned counsel appearing for the respondents 5 to 13 is recorded.

14. This Court has carefully considered the submissions made on either side and the materials available on record.

15. This Court will first deal with the impugned proceedings of the Director of Elementary Education, dated 18.06.2019, which is the subject matter of challenge in W.P.Nos.18280, 18297 and 18308 of 2019. A careful reading of the impugned proceedings shows that the Director of Elementary Education, Chennai, has given a direction to the effect that separate seniority list must be prepared for the Tamil medium teachers and the Telugu medium teachers at Thiruvallur District, Ponneri Educational District and Gummidipoondi Block, as it was done up to 01.01.2012, and the same must be submitted for further action.

16. These instructions given by the Director of Elementary Education, runs completely contrary to the order of this Court in W.P.Nos.1416 etc of 2011, and the resultant proceedings of the very same authority dated 23.07.2012. The authority after having taken a decision to implement the orders of this Court and to prepare a single seniority list/panel for all teachers irrespective of the medium of instruction, ought not to have proceeded to issue another proceedings dated 18.06.2019, which runs contrary. If the proceedings dated 18.06.2019 is implemented, the confusion that was prevailing earlier and which was solved by this Court, will again revive and will virtually affect promotions and the affected parties will be forced to knock the doors of this Court again. Therefore, the impugned proceedings of the Director of Elementary Education dated 18.06.2019, requires interference and accordingly, the same is quashed and W.P.Nos.18280, 18297 and 18308 of 2019 are allowed to that extent.

17. The next issue in question is with regard to dropping the names of the petitioners in W.P.Nos.21182 and 21183 of 2018 from the seniority panel in the year 2018, and thereby depriving the petitioners their promotion to the post of B.T Assistant. Admittedly in this case, the practitioners are

satisfying the requirements of rule 6 (b) of the sub rules and that is why their names were shown in the panel that was prepared for each year from 2012 for the petitioner in W.P.No.21182 of 2018 and 2017 for the petitioner in 21183 of 2018. The petitioners are not language pundits and they are only teaching general subjects till today in bilingual/Tamil medium schools. The petitioners cannot be discriminated on the basis of their mother tongue or their medium of instruction and in this case both the petitioners have also passed the Tamil test. Of course, the delay in passing Tamil test has been raised by the learned counsel appearing for the rival parties and this Court does not want to go into that controversy at this stage, and it is left to the concerned authorities to consider the same at the time of finalising the promotion to the post of B.T Assistants.

18.It is also significant to note that no one has challenged the addition of the names of the petitioners in the panel for promotion to the post of B.T Assistant and all of a sudden their names were removed without assigning any reasons and behind the back of the petitioners. The petitioners are entitled to be considered for promotion to the post of B.T Assistant. The concerned authority has to prepare a single seniority list for all the teachers, irrespective of the medium of instruction in accordance with the order of this Court in W.P.No.1146 etc of 2011, and the proceedings of the Director of Elementary Education, Chennai, dated 23.07.2012. Accordingly, the removal of the name of the petitioners from the promotion panel and considering the names of respondents 6 and 7 in W.P.No.21182 and 21183 of 2018, requires interference and accordingly the same is set aside. To that extent, W.P.Nos.21182 and 21183 of 2018 are allowed.

19.The official respondents/Director of Elementary Education, is directed to prepare a single seniority list for all teachers, irrespective of the medium of instruction and maintain the seniority as per the seniority panel as it existed on 01.01.2018, and consider all the eligible candidates for promotion to the post of B.T Assistant/Secondary Grade Headmaster/Headmistress, strictly in accordance with the relevant rules and after satisfying that the candidates fulfill all the requirements and pass appropriate orders of promotion strictly within a period of six weeks from the date of receipt of copy of this order. This common direction is issued by this Court in all the writ petitions.

In the result, all the writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,  
Government of Tamil Nadu,  
Education (Minority Language Wing),  
Department, Secretariat, Chennai 600 009.
- 2.The Director of Elementary Education,  
Chennai 600 006.
- 3.The Chief Educational Officer,  
Thiruvallur 602 601.
- 4.The District Educational Officer,  
Ponneri Education District,  
Ponneri 602 204.
- 5.Block Educational Officer-I,  
Gummidipoondi Block,  
Thiruvallur 601 201.
- 6.The Secretary to Government,  
School Education Department,  
Secretariat, Fort St.George,  
Chennai-9.
- 7.The District Elementary,  
Educational Officer,  
Thiruvallur District,  
Thiruvallur.

+5cc to Mr.M.Ravi, Advocate sr.101475, 101476, 101477

Common Order made in  
W.P.Nos.21182, 21183 of 2018 &  
18280,18297,18308 & 31591/2019

sv(co)  
nr 29/01/2020

18/28