

granted one opportunity to those who have been appointed subsequent to the Government Order to appear for TET conducted by the Teachers Recruitment Board and in the event of their passing in the TET, their appointment shall be approved else, they have no other option but to quit the service/ousted from service.

17.Since the amendment to the RTE Act, 2009 is subsequent to the order of the Division Bench, as per which, the cut off date was fixed for acquiring qualifications upto 31st March 2019, the petitioner is directed to secure pass in TET before 31.03.2019. If he did not secure pass before 31.03.2019, he shall vacate the office.

18.For the foregoing discussions, the impugned order dated 10.9.2012 passed by the second respondent is set aside and a direction is issued to the second respondent to approve the appointment of M.Rathina Sabapathy as B.T.Assistant(Tamil) from the date of appointment ie., on 25.04.2012 and necessary order in this regard is directed to be passed by the second respondent within a period of six weeks from the date of receipt of a copy of this order. As far as clearing of TET qualification is concerned, an opportunity is granted to M.Rathina sabapathy to secure pass in TET before 31.03.2019 and if he did not secure pass before 31.03.2019, he shall vacate the office.

19.The writ petition is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed."

2.The instant contempt petition is filed for non compliance of the said order.

3.Today, the learned counsel for the State has filed a proceedings dated nil.10.2019 of the District Educational Officer, Vadalur in Na.Ka.No.433/2019. The proceedings reads as under:

"Thiru M.Rathina Sabapathy was appointed as B.T.Asst(Tamil) from 25.04.2012 by the school management in the vacant post of B.T.Asst.(Science) in the Aided Middle School, Mullipallam, Bhuvanagiri Union, Vadalur Education District, Cuddalore District and in the Writ Petition filed by the School management praying for approval of the appointment so made, the Hon'ble Court has, as in the reference 5th cited, ordered as follows:-

" 16.A Division Bench of this Court in W.A.No.1126 of 2016 etc. batch, dated 24.1.2017, granted one opportunity to those who have been appointed subsequent to the Government Order to appear for TET conducted by the Teachers Recruitment Board and in the event of their passing in the TET, their appointment shall be approved else, they have no other option but to quit the service/ousted from service.

17.Since the amendment to the RTE Act, 2009 is subsequent to the order of the Division Bench, as per which, the cut off date was fixed for acquiring qualifications upto 31st March 2019, the petitioner, is directed to secure pass in TET before 31.03.2019. If he did not secure pass before 31.03.2019, he shall vacate the office.

18.For the foregoing discussions,

the impugned order dated 10.9.2012 passed by the second respondent is set aside and a direction is issued to the second respondent to approve the appointment of M.Rathina Sabapathy as B.T.Assistant(Tamil) from the date of appointment ie., on 25.04.2012 and necessary order in this regard is directed to be passed by the second respondent within a period of six weeks from the date of receipt of a copy of this order. As far as clearing of TET qualification is concerned, an opportunity is granted to M.Rathina sabapathy to secure pass in TET before 31.03.2019 and if he did not secure pass before 31.03.2019, he shall vacate the office.

The writ petition is allowed in the aforesaid terms. No costs. Consequently, the connected miscellaneous petition is closed."

2.It is in formed that as, per the Right of Children to Free and Compulsory Education Act, 2009 and the subsequent orders passed in the reference 3rd cited, for appointment of Secondary Grade Teacher and Graduate Teachers, passing of Teacher Eligibility Test is mandatory.

3.With a view to implement the orders of the Hon'ble Court and to avoid contempt proceedings, vide 6th cited, the following order is passed:

Order:

Pursuant to the orders of the High Court in the reference 5th cited, the orders of the District Elementary Educational Officer, Cuddalore converting the post of B.T.Asst(Science) into that of B.T.Asst(Social Science) in the Aided Middle School, Mullipallam, Bhuvanagiri Union, Vadalur Educational District, Cuddalore District is hereby cancelled. In

the light of the orders of the High Court, it is hereby ordered that, the vacant post of B.T.Asst(Science) be converted into that of B.T.Asst(Tamil).

Further, in pursuance of the above orders of the High Court, the appointment of the individual with effect from 25.04.2012 is approved.

In the above said judgement, it has been ordered that the individual shall secure pass in Teacher Eligibility Test before 31.03.2019, failing which he shall vacate the office. The records of the school reveal that the concerned individual has not attended the school from the said date.

Hence, as per the orders of the High Court, the individual shall be deemed to have been vacate the office from 01.04.2019 and in the event of the school management producing supporting records to the effect that the teacher has worked from 25.04.2019, the date of appointment, the petitioner is hereby informed that necessary action will be taken to release the grant in Aid to the said teacher for the period of work."

4.In view of the above, the order dated 09.08.2017 in W.P.No.22018 of 2013 stands complied with.

5.The learned counsel for the petitioner states that the findings recorded in the order is not correct inasmuch as the petitioner had attended the school. However, this is a matter

for a fresh writ petition and not the subject matter of the contempt petition.

6.The contempt petition is closed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

tsg

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Smi/30/10/2019

To

1. Director of Elementary Education,
DPI Compound, College Road,
Chennai - 6.
2. District Elementary Educational Officer,
Cuddalore District.
3. Additional Assistant Elementary Educational Officer,
Bhuvanagiri,
Cuddalore District.