

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.33324 of 2019and WMP Nos.33781 & 33785 of 2019

Mrs.Samiya Samreen

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.
 2. The Director of Elementary Education,
College Road, DPI Campus,
Chennai 600 006.
 3. The Chief Educational Officer,
Presidency Girls Higher Secondary School,
Egmore, Chennai - 600 008.
 4. The District Educational Officer,
Chennai East,
Model Higher Secondary School,
Triplicane, Chennai 600 005.
 - 5.The Block Educational Officer,
Triplicane Range,
Triplicane, Chennai 600 005.
 6. The Correspondent,
Murthuzaviya Primary School,
No.12/186, Big Street,
Triplicane, Chennai 600 005.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 5th respondent in his proceedings bearing Na.Ka.No.63 of 2019 dated 28.03.2019, to quash the same and direct the 5th respondent to approve the periodical increments, incentive increments and to pay arrears of salary to the petitioner.

For Petitioner : Mr.V.Raghupathi

For Respondents: Mrs.V.Annalakshmi

Government Advocate for
R1 to R5.

Mr.Sharath P Navid for R6

O R D E R

This writ petition has been filed challenging the impugned order passed by the 5th respondent, addressing the 6th respondent school to the effect that the petitioner is not entitled for the periodical increment, in view of the fact that he has not qualified himself by passing TET examination.

2. The learned counsel for the petitioner submitted that the Division Bench of this Court in WP Nos.11983 of 2016 etc batch dated 24.08.2016, has categorically held that G.O.Ms.No.181, School Education Department dated 15.11.2011, which insisted for the passing of the TET Exam, will not apply to the Minority institutions. The learned counsel submitted that in view of the Judgment of the Division Bench, the impugned order passed by the 5th respondent is unsustainable in law.

3. The learned Government advocate, who took notice on behalf of the respondents 1 to 5 would submit that a secondary grade teacher in order to be entitled for periodical increment, has to clear the TET exam in accordance with G.O.Ms.No.181, School Education Department dated 15.11.2011.

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

5. It is seen from records that the petitioner was appointed in the 6th respondent school in the year 2016 and the petitioner was holding necessary qualification and her appointment was also approved by the District Educational Officer by proceedings dated 08.11.2017. The 6th respondent school has already sent a representation to the Assistant Elementary Educational Officer to approve the sanctioned periodical increments. The letter was also forwarded to the 5th respondent. The 5th respondent has now passed the impugned order to the effect that the petitioner is not qualified for the sanctioned periodical increment, in view of the fact she has not passed the TET Exam.

6. It will be relevant to extract the portions of the judgment of the Division Bench of this Court in WP Nos.11983 of 2016 etc batch dated 24.08.2016 :-

60. In the light of the above, we are of the view that the Government cannot insist upon the minority

institution, both aided or unaided, to abide by any regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, G.O.Ms.No.76 dated 18.03.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.

7. It is clear from the above judgment that the effect of the G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011, which insisted for the passing of the TET Exam, is not applicable for minority institutions. Admittedly, in this case, the 6th respondent is a minority institution.

8. In view of the above, the impugned order in Na.Ka.No.63 of 2019 dated 28.03.2019, passed by the 5th respondent, is unsustainable and the same requires interference of this Court.

9. In the result, the impugned order passed by the 5th respondent in Na.Ka.No.63 of 2019 is hereby quashed and the 5th respondent is directed to process the papers for the approval of the periodical increments, incentive increments and pay the arrears of salary to the petitioner, within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Secretary to Government,
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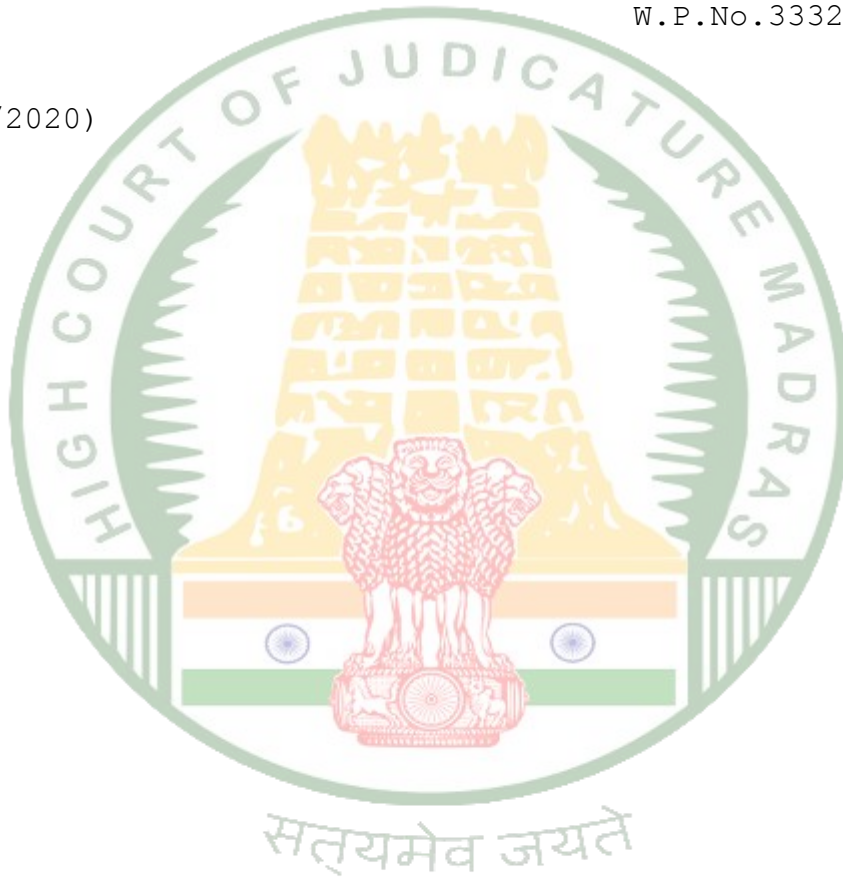
4. The District Educational Officer,
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5. The Block Educational Officer,
Triplicane Range,
Triplicane, Chennai 600 005.

+1cc to Mr.V.Raghupathi, Advocate SR.No.100287

W.P.No.33324 of 2019

RK(CO)
GMY(21/01/2020)



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