



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.06.2019**

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.12811 of 2019

P.Mathiyazahi

... Petitioner

Vs

1. The Director of School Education,
DPI Compound,
College Road,
Chennai-600 006.
2. The Chairman,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai- 600 006.
3. The Chief Educational Officer,
Virudhunagar Educational District,
Virudhunagar.
- 4.The District Educational Officer,
Virudhunagar Educational District,
Virudhunagar District.
5. The Block Educational Officer,
Sivakasi Union,
Virudhunagar District.
6. The Headmaster,
S.H.N.Girls Middle School,
Sivakasi,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 6 to exempt the petitioner from passing Teachers Eligibility Test (TET), as per Clause-V of the Notification issued by National Council for Teacher Education (NCTE) dated 29.08.2010, on the basis of her representation dated 10.05.2019.



For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mrs.S.Srimathi
Special Government Pleader

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ORDER

The relief sought for in this writ petition is for a direction directing the respondents 1 to 6 to exempt the petitioner from passing Teachers Eligibility Test (TET), as per Clause-V of the Notification issued by National Council for Teacher Education (NCTE) dated 23.08.2010, on the basis of the representation dated 10.05.2019.

2.The learned counsel appearing for the petitioner states that the writ petitioner was appointed as Secondary Grade Teacher in a sanctioned post arose on account of the superannuation of Smt.K.Lakshmi on 06.08.2010. He was appointed on 15.04.2011 and joined duty on 18.04.2011 in S.H.N.Girls Middle School, Sivakasi, Virudhunagar District. The petitioner claims exemption from passing of the Teachers Eligibility Test. Now, the prescription of minimum educational qualification is within the purview of the National Council for Teachers Education (NCTE), which is constituted under the Act of Parliament and the same is to be followed by all concerned scrupulously. The State also issued orders to that effect and the same is to be followed uniformly to all whenever the process of appointment to the Teaching posts are undertaken. This being the factum, this Court is of the opinion that the issues were already considered by this Court in the Batch of writ petitions in W.P.Nos.26601 of 2017 etc., dated 07.09.2018 and the relevant paragraphs are extracted hereunder:-

"4.The Government of India effected publication under the provisions of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017. The following Notifications are issued, which is extracted hereunder:-

"1.(1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.

(2) It shall be deemed to have come into force on the 1st day of April, 2015.

2. In the Right of Children to Free and Compulsory Education Act, 2009, in Section 23, in sub-Section(2), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1) shall acquire such minimum qualification within a period of four year from the date of commencement of the Right of Children to Free and Compulsory Education



(Amendment) Act, 2017".

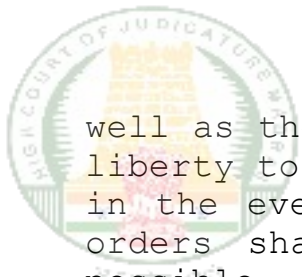
5.The Notification cited supra unambiguously enumerates that every Teacher appointed or in position as on, has to acquire the qualifications of Teachers Eligibility Test (TET). Thus, there cannot be any absolute exemption contrary to the provisions of the said Act, Rules, Regulations and guidelines issued in this regard by the National Council for Teachers Education (NCTE).

6.The learned counsel for the petitioners states that the Government has issued orders, granting exemptions in respect of certain category of Teachers and those orders are also to be considered at the time of implementing the provisions of the Act, Rules, Regulations and guidelines issued by the National Council for Teachers Education (NCTE).

7.In view of the developments that took place on account of the establishment of National Education Policy, this Court is of an opinion that the cases of the writ petitioners are to be considered based on the individual facts and circumstances arising on account of their respective appointments. It is needless to state that the Right to Education Act and the Notifications issued by the National Council for Teachers Education (NCTE) and subsequent guidelines issued in this regard are to be taken note of and a decision is to be taken in this regard by the respondents namely, the Principal Secretary to Government, School Education Department, Fort St. George, Chennai and the Director of School Education, College Road, Chennai-6.

8.In this view of the matter, the State Education Departments officials are directed to consider the cases of all these writ petitioners in the batch of writ petitions on merits and in accordance with law, taking note of the provisions of the Act, Rules, Guidelines and the Government orders issued in this regard and pass orders within a period of four months from the date of receipt of a copy of this order. The writ petitioners are at liberty to submit their respective fresh representations to the respective competent authorities and the relevant documents, enabling the competent authorities to consider their cases on merits and in accordance with law."

<https://hcservices.courts.gov.in/hcservices/> of the judgment cited supra, the case of the writ petitioner also is to be considered and appropriate decisions are to be taken with reference to the Act, Rules and Guidelines as



well as the Government Orders in force. The writ petitioner is at liberty to submit a fresh representation setting out the facts and in the event of any such representation is received, appropriate orders shall be passed by the authorities as expeditiously as possible.

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4. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Director of School Education,
DPI Compound,
College Road,
Chennai-600 006.
2. The Chairman,
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Virudhunagar District.
5. The Block Educational Officer,
Sivakasi Union,
Virudhunagar District.

+1cc to M/S P.M.Vishnu Varthanan, Advocate, Sr.No.67196

+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.67432

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BUC (CS) (19/06/2019) 4P/8C