



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P (MD) Nos.6348 and 6349 of 2019****and****WMP (MD) Nos.5068 to 5071 of 2019**

K.Pramila ... Petitioner in WP(MD)No.6348 of 2019

V.Arul Murugan ... Petitioner in WP(MD)No.6349 of 2019

Vs.

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

2. The Director of School Education,
DPI Campus, College Road
Chennai - 600 006.

3. The Director of Elementary Education,
DPI Campus, College Road,
Chennai- 600 006.

... Respondents
in both WPs

Common Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent in Na.Ka.No.024285/H4/2018 dated 14.12.2018 and Na.Ka.No.024284/H4/2018 dated 28.12.2018 respectively and quash the same and consequently, forbearing the respondents and their subordinates to insist passing of Teacher Eligibility Test (TET) for the petitioners appointed prior to 15.11.2011 to continue in service.

For Petitioners : Mr.G.Sankaran

<https://hcservices.ecourts.gov.in/hcservices/> FOR R1 to R3: Mrs.S.Srimathy,
Special Government Pleader

**COMMON ORDER**

These writ petitions have been filed by the petitioners to quash the proceedings dated 14.12.2018 and 28.12.2018 passed by the third respondent and to forbear the respondents from insisting the petitioners to pass Teacher Eligibility Test (TET) to continue their services as Secondary Grade Teachers.

2. According to the petitioners, they were appointed as Secondary Grade Teachers on 15.06.2011 and 03.01.2011 respectively and their appointments were approved by the respondent authorities. However, as per G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, wherein it was specified that the teachers, who do not possess the minimum qualification of pass in TET, shall acquire the same within a period of five years, the respondent authorities insisted the petitioners to get qualified in TET, for their continuance in the said post. Aggrieved over the same, the petitioners along with others approached this Court by filing a batch of writ petitions, which, vide order dated 07.09.2018, were disposed of by this Court, granting liberty to the petitioners to submit 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. Pursuant to the same, the petitioners submitted individual representations to the respondents, requesting not to insist TET certificate, as they were appointed prior to G.O.Ms.No.181 School Education (C2) Department dated 15.11.2011. On receipt of the same, the third respondent issued the impugned proceedings, rejecting the request of the petitioners. Challenging the same, the present writ petitions came to be filed.

3. The third respondent filed a detailed counter affidavit justifying the impugned proceedings issued against the petitioners herein.

4. The learned counsel for the petitioners submitted that in similar circumstances, this Court has extensively analysed the issue involved herein and held in favour of the petitioners therein, vide order dated 08.03.2019 in WP (MD) No.5626/2017 etc. batch. The relevant paragraphs of the said order are reproduced hereunder:

"9. From the aforesaid Government Orders and the decisions rendered by the Division Bench of this Court, it is manifestly clear that (i) TET shall be conducted by the Teachers Recruitment Board in accordance with the guidelines framed by the National Council for Teacher Education; it has prescribed a set of guidelines for the conduct of TET in the Annexure; it has also specified that the teachers working in unaided private schools are required to pass TET within a period of five years and the Secondary Grade Teachers should also pass



TET forthwith, apart from the minimum qualifications; and further, it is mandatory for all the State Governments to recruit Secondary Grade and B.T. Teachers only by conducting a TET. (ii) As per the decision rendered by the Division Bench of this Court dated 24.08.2016, G.O.Ms.No.181 is not applicable to the minority institutions; and (iii) Another Division Bench of this Court in W.A.No.1126/2016 etc. batch, vide order dated 24.01.2017, held that the teachers, who have been appointed subsequent to the issuance of the G.O., were granted one opportunity to appear for the TET to be conducted by the Teachers Recruitment Board and in the event of their passing in TET, their appointments shall be approved, else they have no other option but to quit the service/ousted from service.

10. However, there is no cut off date specified in the said G.O.Ms.No.181, with regard to acquiring the qualification of pass TET to continue in service as B.T Assistants /Secondary Grade Teachers, who are working as such in the respondent Schools. In this regard, a cursory glance at Clause (5) of the notification dated 23.08.2010 and its amended notification dated 29.07.2011 issued by the NCTE, the contents of which are reproduced at paragraph nos.8.2 and 8.4 above, would reveal that if the process of appointment of teachers was initiated prior to the date of notification by issuing advertisement, such appointments have to be made in accordance with NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 and the same was amended with effect from 29.07.2011. As per the said NCTE Regulations 2001, there is no qualification prescribed with regard to possession of TET certificate, for appointment to the post of B.T Assistant and Secondary Grade Teachers. The qualification of passing TET was first introduced by the notification dated 23.08.2010 and it was amended vide notification dated 27.09.2011. Thus, it could be inferred that the cut off date for acquiring the TET qualification is 27.09.2011 and the teachers, who were appointed prior to that date need not pass TET and even in the case of the teachers who were appointed after that date, if the advertisement to initiate the process of appointment of teachers was made prior to that date, then, their appointments can be in accordance with the NCTE Regulations 2001 and they need not acquire the TET qualification.



7. Accordingly, both the writ petitions are allowed and the impugned proceedings dated 14.12.2018 and 28.12.2018 issued by the third respondent are set aside. The respondents are directed not to insist TET certificate from the petitioners as a pre-condition for their continuance in service as Secondary Grade Teachers. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Director of School Education,
DPI Campus, College Road
Chennai - 600 006.

3. The Director of Elementary Education,
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+ 1 CC to The Special Government Pleader SR.No.56248

W.P (MD) Nos. 6348 and 6349 of 2019

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