

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 09.04.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.8433 of 2019**
and W.M.P(MD)No.6614 of 2019

Central Higher Secondary School,
Kayalpatnam - 628 204,
Tuticorin District,
Rep. by its Correspondent.

... Petitioner

Vs.

1.The Chief Educational Officer,
Tuticorin District, Tuticorin - 628 002.

2.The District Educational Officer,
Tiruchendur - 628 215,
Tuticorin District.

3.J.Aysha Beevi

... Respondents

Prayer: Writ Petition 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 second respondent in his proceedings O.Mu.No.5717/A4/2018, dated 25.03.2019 quash the same as illegal insofar as it relates to the insistence of TET Certificate and consequently direct the first respondent to approve the appointment of the third respondent as B.T Assistant (Science) in the petitioner School with effect from 01.06.2018 in pursuance of their proposal, dated 24.12.2018 without reference to Teacher Eligibility Test within the period stipulated by this Court.

For Petitioner:Mr.M.E.Ilango

For RR 1 & 2 :Mrs.S.Srimathy,

Special Government Pleader.

ORDER

This writ petition has been filed to quash the impugned proceedings of the second respondent, dated 25.03.2019 and direct the first respondent to approve the appointment of the third respondent as BT Assistant (Science) in the petitioner-school with all attendant benefits.



2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader for the respondents 1 and 2.

3. The learned counsel appearing for the petitioner submitted that the petitioner-school has appointed the third respondent as a BT Assistant (Science) and seeking approval of the said third respondent, the petitioner-school submitted a proposal to the Chief Educational Officer on 24.12.2018 through proper channel viz., the District Educational Officer. The District Educational Officer, without forwarding the proposal to the Chief Educational Officer, passed the impugned order dated 25.03.2019, denying approval to the appointment for want of pass in Teachers Eligibility Test (TET), which is not applicable to the petitioner-school.

4. The learned counsel further submitted that the issue involved in this writ petition is squarely covered by the earlier order of this Court in ***The Manager and Correspondent, Carpenter Street Middle School, Gopalsamy Street, Tuticorin, Tuticorin District - 628 001 Vs. The State of Tamil Nadu, rep.by its Secretary, Department of School Education, Fort St. George, Chennai - 600 009 [W.P(MD) No.12876 of 2017, decided on 12.07.2017]*** and prayed for passing similar orders in this writ petition also. It would be useful to refer to the operative portion of the said order, which reads as follows:

"5. When it is well settled legal position that in the matters of appointment of teachers in a minority educational institution, the teachers can be appointed even without passing the Teachers Eligibility Test, the present impugned order directing the petitioner minority school to enclose the certificate of pass in Teachers Eligibility Test by the Secondary Grade Teacher Tmt.E.Mispa Georgina, is wholly unsustainable. Therefore, the same is set aside and the second respondent is hereby directed to forward the proposal sent by the petitioner-school to the third respondent. On receipt of the same, the third respondent is directed to consider the said proposal and pass appropriate orders on the said proposal, within a period of four weeks therefrom."

5. The learned Special Government Pleader appearing for the respondents 1 and 2 fairly conceded the submissions made on the petitioner's side.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and following the aforesaid order, the impugned order of the second respondent dated 25.03.2019 is set aside and the second respondent is hereby directed to forward the proposal sent by the petitioner-school to the first respondent. On receipt of the same, the first respondent is directed to consider the said proposal and pass appropriate orders on the said proposal, within a period of



four weeks therefrom.

7.The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Chief Educational Officer,
Tuticorin District, Tuticorin - 628 002.

2.The District Educational Officer,
Tiruchendur - 628 215,
Tuticorin District.

+1cc to Mr.M.E.Ilango,Advocate, SR.No.59948

+1cc to Special Government Pleader, SR.No.60193

W.P(MD)No.8433 of 52019

09.04.2019

SP/29.04.2019/3P/5C