



WEB COPY

PRAYER in W.P(MD)No.19603 of 2019 : Writ Petition is filed under

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos. 19603 and 19659 of 2019
and
W.M.P(MD)Nos.16064 & 16117 of 2019

The Correspondent,
Christhu Raja Higher Secondary School,
Palayamkottai-627 002,
Tirunelveli District.

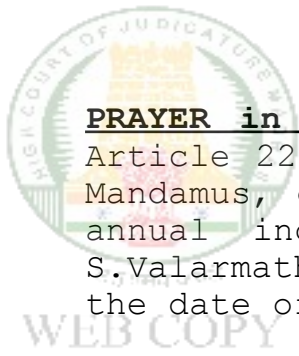
... Petitioner
in both the writ petitions

vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

... Respondents
in both the writ petitions

PRAYER in W.P(MD)No.19603 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to release forthwith the annual increments and other allowances towards the salary of Sr.G.Irudaya Mary as BT Assistant English in the petitioner's school from the date of appointment and approval i.e., 15.09.2010.



PRAYER in W.P(MD)No.19659 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to release forthwith the annual increments and other allowances towards the salary of S.Valarmathi as BT Assistant Maths in the petitioner's School from the date of appointment and approval i.e., 01.02.2011.

In both WPs.

For Petitioner : Mrs.A.Amala
For Respondents : Mr.A.Thiyagarajan,
Government Advocate

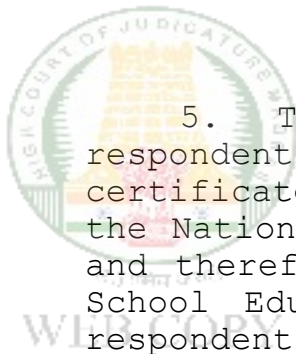
COMMON ORDER

These writ petitions are filed for a direction to the respondents to release the annual increments and other allowances towards the salary of Sr.G.Irudaya Mary as BT Assistant (English) and S.Valarmathi as BT Assistant (Maths) from the date of appointment and approval i.e., 15.09.2010 and 01.02.2011 respectively.

2. Since the issues involved in both the Writ Petitions are one and the same and therefore, both Writ Petitions are heard together and disposed of by way of this common order.

3.The petitioner's School is a minority institution. The petitioner's school appointed two teachers by name Sr.G.Irudaya Mary as BT Assistant (English) and S.Valarmathi as BT Assistant (Maths) in the sanctioned posts. Their appointments were approved by the fourth respondent and their salary was paid. However, the fourth respondent has not sanctioned annual increments to the teachers on the ground that they have not passed Teachers Eligibility Test.

4. The learned counsel appearing for the petitioner contended that as per the judgment of the Hon'ble Apex Court in ***Pramati Educational and Cultural Trust and others Vs. Union of India reported in 2014(4) MLJ 486*** and the Division Bench Judgment in ***Secretary to Government v. S.Jeyalakshmi reported in 2016(5) CTC 639***, a pass in Teachers Eligibility Test is not necessary to the Teachers appointed in the minority institutions. The fourth respondent is not correct in not sanctioning the annual increment and other benefits after approving the appointment and granting salary on the ground that the Teachers appointed are not passed in Teachers Eligibility Test and prayed for allowing the writ petitions.



5. The learned Government Advocate appearing for the respondents contended that the teachers are not possessing the certificate of pass in Teachers Eligibility Test as prescribed by the National Council for Teachers Educations, for their appointment and therefore, their appointment is in violation of G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011. The fourth respondent sought clarification with regard to pass in Teachers Eligibility Test. The petitioner, without submitting the proposal with particulars sought for by the fourth respondent, has come out with the present writ petitions and prayed for dismissal of these writ petitions.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. It is not in dispute that the petitioner's Management is a minority institution. Whether teachers appointed in minority institution must possess a certificate of pass in Teachers Eligibility Test or not, is no longer res-integra. The Division Bench of this Court in ***Secretary to Government v. S.Jeyalakshmi reported in 2016(5) CTC 639*** in paragraphs 59 & 60 has held as follows:-

"59. Insofar as Minority Institutions are concerned, the contention of the learned Senior Counsel appearing for the Minority Schools is that when Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 received the assent of the President of India and it is still in force, it cannot be supplanted by an Executive Order, namely by G.O.Ms.No.181, dated 15.11.2011. Further, the Apex Court has clearly held in Pramati Educational & Cultural Trust that RTE Act, 2009 is not applicable to the Minority Institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30(1) of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181, dated 15.11.2011, which was issued pursuant to the directions of NCTC, cannot be made applicable to the Minority Institutions.

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



The petitioner institution appointed two persons on 15.09.2010 and 01.02.2011 prior to the date of issuance of Government Order.

8. A reading of above two paragraphs makes it clear that the Government Orders in G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, is not applicable to the Minority Institutions.

9. In view of the ratio laid down by the Division Bench of this Court in the decision cited supra, both the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Am

To

- 1.The Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli, Tirunelveli District.

+2 CC to M/s.A.AMALA, Advocate SR-92785 & 92785.

+1 CC to SPL GP SR-93109 & 93108.

W.P (MD) Nos. 19603 and 19659 of 2019

17.10.2019

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