



WEB COPY

W.P. (MD) Nos.8168 and 8169 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.8168 and 8169 of 2017

and

W.M.P. (MD) Nos.6291 and 6292 of 2017

R.Kumar ... Petitioner in W.P. (MD) No.8168 of 2017
R.Kalidas ... Petitioner in W.P. (MD) No.8169 of 2017

-Vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai-09.

2.The Director of Elementary Education,
Directorate of Elementary Education,
Chennai-06.

3.The District Elementary Education Officer,
Theni, Theni District.

4.The Chairman,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

... Respondents
... in W.P. (MD) No.8168 of 2017

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai-09.

2.The Director of School Education,
Directorate of School Education,
Chennai-06.

3.The Chief Education Officer,
Theni, Theni District.

4.The District Education Officer,
Uthamapalayam, Theni District.



5.The Chairman,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai-06.

... Respondents

... in W.P. (MD) No.8169 of 2017

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COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from compelling the petitioners to acquire a pass in TET for continuance in the post of B.T. Assistant (Science) at Kammavar Saraswathi Middle School, Balasamudram-625 512, Theni District, by taking note of the appointment on 27.12.2010, prior to the issuance of G.O.Ms.No.181, School Education, dated 15.11.2011.

For Petitioner : Mr.T.Lajapathi Roy
(in both Writ Petitions)
For R1 to R3 : Mr.S.Dhayalan,
: Government Advocate.
(in W.P. (MD) No.8168 of 2017)
For R4 : Mr.V.R.Shanmuganathan,
Special Government Pleader.
(in W.P. (MD) No.8168 of 2017)
For R1 to R4 : Mr.S.Dhayalan,
: Government Advocate.
(in W.P. (MD) No.8169 of 2017)
For R5 : Mr.V.R.Shanmuganathan,
Special Government Pleader.
(in W.P. (MD) No.8169 of 2017)

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and decided in this common order.

2.Heard Mr.T.Lajapathi Roy, learned counsel appearing on behalf of the petitioners and Mr.S.Dhayalan, learned Government Advocate and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

3.The petitioners are appointed as B.T. Assistant (Science) on 27.12.2010 at Kammavar Saraswathi Middle School in a sanctioned post, after obtaining prior permission from the authority. Their appointments as B.T. Assistant (Science) were also approved by the authority.

4.According to the petitioners, the respondents are compelling the petitioners for appearing Teachers Eligibility Test



(hereinafter referred to as 'TET') examination to be held on 29.04.2017. The petitioners submitted that when they were appointed on 27.12.2010, there was no requirement of pass in TET examination for appointment. The National Council for Teacher Education (hereinafter referred to as 'NCTE') has issued a notification, dated 23.08.2010, laying down the minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII. The first respondent issued Government Order in G.O.Ms.No.181, dated 15.11.2011, making the TET as mandatory for all the teachers, who are working within the State. The Government first time conducted TET examination in the month of July, 2012 and the results were published only in the month of August, 2012.

5.The learned counsel for the petitioners contended that this issue was already considered by the Division Bench of this Court and the Division Bench of this Court held that those, who were appointed prior to the issuance of G.O.Ms.No.181, cannot be compelled to pass TET. In view of the said judgment, the notification, dated 23.08.2010, was amended on 29.07.2011, stating that the qualification of TET is mandatory only from 29.07.2011 and the respondents cannot compel the petitioners to appear and pass in the TET examination and he prayed for allowing these Writ Petitions.

6.The issue whether a person, who was appointed as B.T. Assistant prior to the issuance of G.O.Ms.No.181, can be compelled to acquire a pass in TET Examination, is no longer *res integra*. The amended notification issued by the NCTE makes it very clear that the qualification of TET is mandatory only from 29.07.2011. The Division Bench of this Court, in a batch of Writ Petitions, has considered these issues and held that the respondents cannot compel the teachers similarly placed like petitioners to pass in TET examination.

7.For the above reasons, these Writ Petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Principal Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-09.

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6.The Chief Education Officer,
Theni, Theni District.

7.The District Education Officer,
Uthamapalayam, Theni District.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-89110&89111[F] dated
25/09/2019)