

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.32574 and 32575 of 2013

Mrs.J.Arun Pradap ... Petitioner in W.P.32574/2013
Mrs.J.Scholastic Amali ... Petitioner in W.P.32575/2013

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St.George, Chennai - 9.
2. The Director of School Education,
DPI Campus,
College Road, Chennai - 6. 1st & 2nd Respondents in both
the W.Ps.32574 & 32575/2013
3. The Chief Educational Officer,
Viruthachalam District,
Viruthachalam.
4. The District Educational Officer,
Viruthachalam District,
Viruthachalam.
5. The Correspondent,
St.Antony's Higher Secondary School,
Aranthangi,
Viruthachalam District. Respondents 3 to 5 in
W.P.32574/2013
3. The Chief Educational Officer,
Nagapattinam District, Nagapattinam.
4. The District Educational Officer,
Nagapattinam District, Nagapattinam.
5. The Correspondent,
St.Antony's Higher Secondary School,
Belipalayam,
Nagapattinam District. Respondents 3 to 5 in
W.P.32575/2013

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondents pertaining to his proceedings in Na.Ka.No.34116/D1/E4/2013 and the proceedings of the 3rd respondent pertaining to his proceedings in Na.Ka.Nos.5787/A2/2013 and 5690/A4/2013 respectively and quash the orders dated 7.11.2013 and 19.11.2013.

For Petitioners : Mr.R.Sivakumar
for M/s.P.Sesubalan Raja

For Respondents : Mr.S.Suresh Kumar
Government Advocate

C O M M O N O R D E R

These writ petitions have been filed by the petitioners seeking issuance of Writ of Certiorari calling for the records of the second respondent pertaining to his proceedings in Na.Ka.No.34116/D1/E4/ 2013 and the proceedings of the third respondent pertaining to his proceedings in Na.Ka.Nos.5787/A2/2013 and 5690/A4/2013 respectively and to quash the orders dated 07.11.2013 and 19.11.2013.

2.The case of the petitioners is that the petitioners were appointed as B.T.Assistants in the vacancy that arose due to the retirement of the then incumbents. After their appointment, the respective fourth respondent duly approved their appointment from the date of appointment and due salary was paid to the petitioners. Whiles, to the petitioners utter shock, the approval of the petitioners appointment were cancelled vide the impugned order dated 19.11.2013 and the petitioners were relieved from their posts. On enquiry, the petitioners came to know that the second respondent had issued an order dated 07.11.2013, wherein, it is stated that permission to fill up the vacancy of the Teachers who are not qualified with TET cannot be considered after the date of issuance of G.O.(Ms.) No.181 dated 15.11.2011. Aggrieved by the same, the petitioners have filed these writ petitions.

3.The learned counsel appearing for the petitioners would submit that the issue raised in these writ petitions is covered by the decision of the Hon'ble Division Bench of this Court reported in MANU/TN/1869/2016 (The Secretary to Government, Government of Tamil Nadu and others Vs. S.Jeyalakshmi and others), the relevant portion of which reads as follows:

"2.(i) challenging the rejection of

approval of appointment of Teachers who did not qualify themselves with Teacher Eligibility Test and consequently, to accord approval of their appointment;

(vii) challenging G.O.Ms.No.181, School Education, dated 15.11.2011 and the consequential order directing the Teachers whose appointments were already approved, to complete Teachers Eligibility Test before 31.3.2015;

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, which was issued pursuant to the directions of NCTE, 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 institution, 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 18.3.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions. सत्यमेव जयते

61. Though the intention of the Government is that there should not be any discrimination among the Teachers working in non-minority Schools and minority Schools with respect to qualification and that there should be uniformity in the teaching imparted to the children, in view of the decision of the Apex Court in Pramati Educational & Cultural Trust, the Government cannot take shelter under the guise of discrimination to impose restrictions on minority institutions."

4.The learned Government Advocate did not dispute the submissions made by the learned counsel appearing for the petitioners.

5.Following the decision cited supra, these writ petitions are allowed and the impugned orders are quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai - 9.
2. The Director of School Education,
DPI Campus,
College Road, Chennai - 6.
3. The Chief Educational Officer,
Viruthachalam District,
Viruthachalam.
4. The District Educational Officer,
Viruthachalam District, Viruthachalam.
5. The Chief Educational Officer,
Nagapattinam District,
Nagapattinam.
6. The District Educational Officer,
Nagapattinam District, Nagapattinam.

+1cc to Mr.P.Sesubalan Raju, Advocate, Sr.No.29313

+1cc to the Government Pleader, Sr.No.29110

W.P.Nos.32574 and 32575 of 2013

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