



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W. P. (MD) No. 1322 of 2020

and

W. M. P. (MD) No. 1069 of 2020

The Correspondent,
Amali Girls Higher Secondary School,
Irudhayakulam,
Vickramasingapuram,
Tirunelveli District.

.. Petitioner

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 - 600 009.

3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

4.The District Educational Officer,
Cheranmahadevi, Tirunelveli District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th Respondent DEO in Na.Ka.No.5650/A1/19, dated 24.12.2019, quash the same, and further direct the respondents herein to approve forthwith the appointment of Sr.V.Jeyakani as BT Assistant Science in the petitioner's School from the date of appointment i.e., 15-06-2011



and to release forthwith the annual increments and other allowances towards her salary.

For Petitioner : Ms.A.Amala

For Respondents : Mr.A.Thiagarajan
Government Advocate

O R D E R

The petitioner herein is a minority school, which has sought for approval of the appointment of a B.T.Assistant in their school with effect from the date of her appointment (I.e.) from 15.06.2011 onwards. The respondents herein through the impugned order, dated 24.12.2019 had rejected the petitioner's proposal on the ground that the concerned teacher had not qualified herself in the Teachers Eligibility Test (TET).

2.The reasoning of the respondents in rejecting the petitioner's proposal is impermissible, in view of the fact that the provisions of the Right To Education Act, 2009, are not applicable to minority Educational Institutions, as held by the Hon'ble Supreme Court in **PRAMATI EDUCATIONAL AND CULTURAL TRUST AND OTHERS v. UNION OF INDIA AND OTHERS**, reported in **2014 (4) MLJ 486 (SC)**. Following the said decision of the Hon'ble Apex Court, the Division Bench of this Court in the case of **SECRETARY TO GOVERNMENT v. S.JEYALAKSHMI**, reported in **2016 (5) CTC 639**, had held that the teachers appointed in minority educational institutions need not possess the TET qualification. The said proposition has been reiterated in various other decisions of this Court. On this short ground, the reasoning of the respondents in rejecting the petitioner's request for approval of B.T. Assistant Teachers in their school cannot be sustained.

3.There is yet another aspect to the case in hand. This Court in a batch of writ petitions in W.P.(MD)No.5626 of 2017 etc., batch, had passed orders on 08.03.2019 holding that the cut-off date for acquiring the TET qualification is 27.09.2011 and the teachers, who had appointed prior to that date need not possess the qualification of TET.

4.In the instant case, the BT Assistant was appointed on 15.06.2011, which is prior to the cut-off date and by applying the aforesaid decision in batch of cases, the reason assigned by the respondents in the impugned order that she has not qualified for the TET, cannot be sustained.

5.For all the forgoing reasons, this Court is of the view that the petitioner is entitled to succeed. Accordingly, the impugned order passed by the fourth respondent in Na.Ka.No.5650/A1/19, dated



24.12.2019, is quashed. Consequently, the third respondent herein is directed to approve the appointment of Ms.V.Jeyakani as B.T. Assistant Science in the petitioner's school from 15.06.2011 onwards, which is her date of appointment and thereby release all her accrued monetary and service benefits, which process shall be completed atleast within a period of four weeks from the date of receipt of a copy of this order.

6.In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

To

1.The Secretary,

Department of School Education,

Fort St.George, Chennai - 600 009.

2.The Director of School Education,

College Road, Chennai - 600 009.

3.The Chief Educational Officer,

Tirunelveli, Tirunelveli District.

4.The District Educational Officer,

Cheranmahadevi, Tirunelveli District.

+1 CC to M/s.Special Govt.Pleader (SR-5219[F] dated 07/02/2020)

+1 CC to M/s.A.AMALA, Advocate (SR-5257[F] dated 07/02/2020)

W.P. (MD)No.1322 of 2020

06.02.2020

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