



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.1480 of 2020

and

W.M.P. (MD)Nos.1182 & 1185 of 2020

WEB COPY

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 is 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 O.Mu.No.4560/A1/19, dated /11/2019, quash the same, and further Direct the respondents herein to approve forthwith the promotion of Sr.A.Maria Mallika as PG Assistant Zoology in the petitioner's School from the date of her promotion i.e., 03.06.2019 and disburse the grant-in-aid towards her salary and allowance with effect from the said date.

For Petitioner : M/s.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 promotion of a PG Assistant Zoology in their school with effect from the date of her promotion, (i.e.) from 03.06.2019 onwards. The respondents herein, through the impugned order dated 18.11.2019, 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
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petitioner's approval 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 PG Assistant Teachers in their school, cannot be sustained.

3. There is yet another aspect to this case. One of the B.T. Assistant Science teacher viz., Ms.A.Maria Mallika, was promoted to the post of PG Assistant Zoology, which post became vacant due to the retirement of the previous incumbent, with effect from 03.06.2019. Since the petitioner herein promoted one of its teacher to the sanctioned post of PG Assistant Zoology, the respondent may not be justified in insisting that the concerned teacher should have qualified herself in the TET examination.

4. Annexure IV of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, prescribes the qualifications for a PG Assistant and the requirement of passing TET examination is not contemplated therein, insofar as it relates to PG Assistants. While that being so, the respondents cannot insist the concerned teacher to pass the TET examination for the post of PG Assistant.

5. In view of the above, the impugned order passed by the fourth respondent in O.Mu.No.4560/A1/19, dated 18.11.2019, is set aside. Consequently, there shall be a direction to the respondents herein to approve forthwith the promotion of Sr.A.Maria Mallika as PG Assistant Zoology in the petitioner's School from the date of her promotion i.e., from 03.06.2019. The process of disbursing the grant-in-aid shall be completed atleast within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The Secretary,
State of Tamil Nadu,
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.SPL GP (SR-5203[F] dated 07/02/2020)

+1 CC to M/s.A.AMALA, Advocate (SR-5256[F] dated 07/02/2020)

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SMA/26/02/2020/3P/7C