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W.A.(MD)Nos.642 & 643 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)Nos.642 and 643 of 2020

in W.P(MD)No.19603 & 19659 of 2019

and

C.M.P(MD)Nos.4044 and 4046 of 2020

W.A(MD)No.642 of 2020:

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

... Appellants/Respondents

Vs.

The Correspondent,
Chirsturaja Higher Secondary School,
Palayamkottai,
Tirunelveli District.

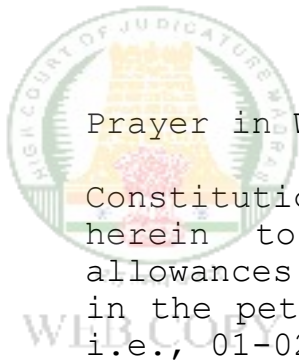
... Respondent/Writ Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P(MD)No.19603 of 2019, dated 17.10.2019.

Prayer in WP(MD). 19603/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court 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 petitioners school from the date of appointment and approval i.e., 15-09-2010.

<https://hcservices.ecourts.gov.in/hcservices/>



Prayer in WP(MD). 19659/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court 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 petitioners School from the date of appointment and approval i.e., 01-02-2011.

For Appellants : Mrs.S.Srimathy
Special Government Pleader
For Respondent : Sis.A.Amala

* * * * *

W.A(MD)No.643 of 2020:

1.The State of Tamil Nadu,
represented by its
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Chennai - 600 009.

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Tirunelveli.

... Appellants/Respondents

Vs.

The Correspondent,
Chirsturaja Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Respondent/Writ Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P(MD)No.19659 of 2019, dated 17.10.2019.

For Appellants : Mrs.S.Srimathy
Special Government Pleader
For Respondent : Sis.A.Amala

* * * * *



COMMON JUDGMENT

(Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**)

The official respondents in W.P(MD)Nos.19603 and 19659 of 2019 are the appellants.

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2. The respondent in W.A(MD)No.642 of 2020 filed W.P(MD) No.19603 of 2019 praying for issuance of a writ of Mandamus, directing the respondents therein to release forthwith the annual increments and other allowances towards the salary of Sr.G.Irudaya Mary as B.T., Assistant (English) in the respondent's school from the date of appointment and approval, i.e., 15.09.2010 and yet another writ petition in W.P(MD)No.19659 of 2019 was also filed for issuance of a writ of Mandamus, directing the respondents therein to release forthwith the annual increments and other allowances towards the salary of S.Valarmathi as B.T., Assistant (Maths) in the respondent's school from the date of appointment and approval, i.e., 01.02.2011.

3. Both the writ petitions were taken up together and allowed vide common order, dated 17.10.2019.

4. Challenging the legality of the said common order, the present writ appeals are filed by the official respondents.

5. These writ appeals are taken up for hearing and disposed of by this common judgment as the issue to be adjudicated is one and the same.

6. The sole question that arises for consideration is as to the insistence of the appellants/official respondents the requirement of Teacher Eligibility Test (in short 'TET') by the Teachers, namely, Sr.G.Irudaya Mary and S.Valarmathi?

7. The learned Judge, in the impugned common order, dated 17.10.2019, had taken note of the judgment rendered by the Constitution Bench of the Honourable Supreme Court in ***Pramati Educational and Cultural Trust and others v. Union of India*** reported in **2014 (4) MLJ 486** as well as the judgment of the Division Bench of this Court in ***Secretary to Government v. S.Jeyalakshmi*** reported in **2016 (5) CTC 639**, wherein a proposition has been held that passing of TET is not necessary for the Teachers appointed in Minority Institutions and further recorded a finding that the said two Teachers, namely, Sr.G.Irudaya Mary and S.Valarmathi, were appointed by the respondent/writ petitioner on 15.09.2010 and 01.02.2011 respectively, i.e., prior to the date of issuance of the Government Order and as such, G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, has no application to the respondent/writ petitioner Minority Institution.



8. Though it is the vehement and forceful submission of the learned Special Government Pleader appearing for the appellants/official respondents as to the mandatory nature of passing of TET by the Teachers employed in the respondent's/writ petitioner's Religious Aided Minority Institution, in the considered opinion of this Court, in the light of the ratio laid down by the Constitution Bench of the Honourable Supreme Court in **Pramati Educational and Cultural Trust and others v. Union of India** (cited supra), followed by the Division Bench of this Court in **Secretary to Government v. S.Jeyalakshmi** (cited supra), passing of TET is not necessary to the Teachers appointed in the Minority Institutions and that apart, the Teachers in question have been appointed on 15.09.2010 and 01.02.2011 respectively, i.e., prior to the date of issuance of the Government Order in G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011. The learned Judge has rightly reached the conclusion that G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, has no application to the respondent/writ petitioner/Minority Institution.

9. The learned Counsel for the respondent/writ petitioner/Minority Institution has also reiterated the stand taken by them in the writ petitions before the learned Single Judge.

10. This Court, on an independent application of mind to the entire materials placed on record, is of the considered view that there is no error apparent and infirmity in the reasons assigned by the learned Judge for allowing the writ petitions and finds no merit in these writ appeals.

11. In the result, both the **writ appeals are dismissed**, confirming the common order, dated 17.10.2019, passed in W.P(MD) Nos.19603 and 19659 of 2019. The appellants 3 and 4/official respondents 3 and 4 are directed to comply with the common order, dated 17.10.2019, passed in W.P(MD)Nos.19603 and 19659 of 2019, as confirmed in the common judgment made in these writ appeals, within a period of **eight weeks** from the date of receipt of a copy of this judgment and communicate the decision taken to the respondent/writ petitioner/Minority Institution. No costs. Consequently, the connected civil miscellaneous petitions are also dismissed.

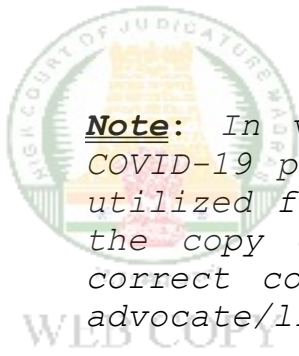
Sd/-

Assistant Registrar (A.S)

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/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary, State of Tamil Nadu,
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Tirunelveli.

+1 CC to M/s.A.AMALA, Advocate SR-15372.
+1 CC to the SPL GP SR-15394.

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and
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CS(08.09.2020) 5P 7C