



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD) No.501 of 2020
and C.M.P. (MD) No.3556 of 2020
(Through Video Conferencing)

Jansi Rani

... Appellant

-Vs-

1.The Secretary to Government
Government of Tamil Nadu
School Education Department
Fort St. George, Chennai - 9.

2.The Director of School Education
College Road, DPI Campus,
Chennai.

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

4.The Assistant Elementary Educational Officer
Keelapavoor Division, Tirunelveli District.

5.The Correspondent
R.C.Primary School
Kandamangalam, Pulichikulam
Tirunelveli District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order passed in W.P.(MD)No.16821 OF 2015 dated 29.08.2019.

Prayer in WP(MD). 16821 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 to grant approval to the petitioner's appointment as Secondary Grade Teacher in the 5th respondent minority aided school.



For Appellant : Mr.D.Venkatesh
For Respondents : Mrs.Srimathy,
Special Govt. Pleader for R1 to R4

JUDGMENT

[Judgment of the Court was made by **M. SATHYANARAYANAN, J.,**]

The appellant is the writ petitioner and according to her, after completing her Higher Secondary Education in the year 1998, she joined Diploma in Teacher Education (D.T.Ed.) Course and successfully completed the same during September 2003 and thereafter, waiting for a post of Secondary Grade Teacher. The appellant/writ petitioner would further aver that the fifth respondent, vide order dated 07.01.2012, appointed her as Secondary Grade Teacher in the place of one Mrs.Maria Grace, with effect from 10.01.2012 and she has joined the said post on the same day on the services of the fifth respondent minority institution. The third respondent, vide proceedings dated 29.08.2017, in Na.Ka.No.486/Aa4/2016, has also accorded temporary approval for her appointment. It is further averred by the appellant/writ petitioner that the fifth respondent has submitted a proposal before the third respondent, through the fourth respondent, seeking approval of her appointment in a sanctioned post and the fourth respondent, vide proceedings dated 07.12.2012, had returned the file to the third respondent for want of enclosures regarding the eligibility of certificate in Teacher Eligibility Test.

2. It is the case of the appellant/writ petitioner that in the light of the judgment reported in **(2014) 4 MLJ 486 (SC) [Pramati Educational and Cultural Trust and others Vs. Union of India and others]**, a Constitution Bench held that the qualification of Teacher Eligibility Test cannot be insisted in respect of the Teachers employed in minority institution and as such, return of file on the part of the fourth respondent is not in order and therefore, came forward to file a writ of mandamus, directing the respondents 1 to 4 to grant approval for appointment in the services of the fifth respondent school.

3. The learned Judge had grouped similar kind of writ petitions and vide a common order dated 29.08.2019, had observed, among other things, that necessary proposal is to be submitted by school and further made it clear that the Teachers must possess the Teacher Eligibility test, as it is being a mandatory qualification for appointment of teaching posts. Challenging the legality of the said portion of the order, the appellant/writ petitioner has filed this writ appeal.



4. The learned counsel appearing for the appellant/writ petitioner would submit that in the light of the **Pramati Case**, (cited supra), the insistence of passing Teacher Eligibility Test in respect of the Teachers employed in minority institution, does not arise at all and prays for interference.

5. Per contra, Mrs.S.Srimathy, learned Special Government Pleader appearing for respondents 1 to 4 would submit that the **Pramati Case** (cited supra) is referred to a larger Bench and in the light of the fact that Teacher Eligibility Test is insisted for the benefit of students, there is nothing wrong on the part of the direction issued by the learned Judge in paragraph No.5 of the impugned order and prays for dismissal of this writ petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Writ Appeal is allowed and the order dated 29.08.2019 in W.P.(MD)No.16821 of 2015, in the light of the judgment reported in **(2014) 4 MLJ 486 (SC) [Pramati Educational and Cultural Trust and others Vs. Union of India and others]**, the passing of Teacher Eligibility Test on the part of the appellant/writ petitioner, who is employed in the service of the fifth respondent, cannot be insisted upon. Therefore, the fifth respondent is directed to re-submit the proposal to the third respondent, who on receipt of the same, shall consider and pass appropriate orders, as to the request made by the fifth respondent seeking approval for appointment of appellant/writ petitioner. The entire exercise shall be carried out within a period of 10 weeks from the date of receipt of a copy of this order and necessary communication shall be sent to the fifth respondent. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsm

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

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+1 CC to M/s.GP (SR-13583[F] dated 04/08/2020)

W.A. (MD) No.501 of 2020
and C.M.P. (MD) No.3518 of 2020
31.07.2020

VR(CO)
TR(12.08.2020) 4P 7C