



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.02.2020

PRONOUNCED ON : **28.02.2020**

CORAM:

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

W.P. (MD) No. 26186 of 2019

and

W.M.P. (MD) No. 22631 & 22632 of 2019

Correspondent,
R.C.Middle School,
Cheranmahadevi,
Tirunelveli District.

...Petitioner

/vs./

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

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

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

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent DEO in Na.Ka.No.3494/a4/2018 dated 20.06.2019 and the consequential proceedings of the 4th respondent BEO in O.Mu.No.840/a1/2018 dated --.08.2019, quash the same and further direct the respondents to approve forthwith the appointment of S.Daisy Rani as BT Assistant Science in the petitioner's School w.e.f., 01.08.2018 with all attendant benefits including the arrears of salary and allowance.



For Petitioner : Ms.A.Amala
For Respondents : Mr.M.Karuppasamy
Government Advocate

WEB COPY

ORDER

The petitioner's School is a Minority Institution, who had appointed one Mrs.S.Daisy Rani as B.T.Assistant (Science) with effect from 01.08.2018 in a vacancy that arose in a sanctioned post. The proposal of the School submitted to the third respondent seeking for approval of the said appointment and disbursement of grant-in-aid towards her salary came to be rejected through the impugned order stating that the Teacher (petitioner) had not passed the TET examination. Challenging the same, the present writ petition has been filed.

2. The Hon'ble Apex Court in the case of **Pramati Educational and Cultural Trust and Others vs. Union of India and Others** reported in **2014 (8) SCC 1** has held that the provisions of the Right to Education Act has no applicability, insofar as the Minority Educational Institutions are concerned.

3. In the aforesaid background, the learned counsel for the petitioner would submit that the requirement of a Teacher to have passed the TET examination cannot be insisted for the purpose of appointments of Teachers in Minority Educational Institutions.

4. The decision of the Hon'ble Apex Court came to be consistently followed and applied in various other decisions of this Court and in one such decision of the Hon'ble Division Bench of this Court in the case of the **Secretary to Government vs. S.Jeyalakshmi** reported in **2016 (5) CTC 639**, it was held that the Teachers appointed in Minority Educational Institutions need not possess TET qualification. Likewise, in the case of **B.Annie Packiarani Bai vs. The Director of School Education and others** passed in **W.A.(MD)No.859 of 2019, dated 26.09.2019**, the Hon'ble Division Bench of this Court had also held that the Government cannot insist upon the Minority Educational Institutions, both aided and unaided to abide by any regulation framed under the provisions of the Right to Education Act and therefore, the Government Order in G.O.Ms.No.181, (School Education - C2), dated 15.11.2011, which mandates the requirement of TET qualification for appointment of Teachers is inapplicable to the Minority Institutions.

5. In the light of the above observations, this Court is of the view that the respondents herein are not justified in



insisting upon the TET qualification as a pre-condition for granting approval. Accordingly, the impugned order in Na.Ka.No.3494/a4/2018 dated 20.06.2019 passed by the third respondent and the consequential proceedings of the 4th respondent BEO in O.Mu.No.840/a1/2018 dated --.08.2019 are set aside. Consequently, there shall be a direction to the third respondent herein to forthwith approve the appointment of Mrs.S.Daisy Rani as B.T.Assistant (Science) in the petitioner's School with effect from 01.08.2018 with all attendant benefits including arrears of salary and allowances, disbursement of which shall be done atleast within a period of four (4) weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sm

To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.
- 4.The Block Educational Officer,
Cheranmahadevi, Tirunelveli District.

+1 CC to M/s.SPL GP (SR-5130[F] dated 06/02/2020)

+1 CC to M/s.A.AMALA, Advocate (SR-9153[F] dated 28/02/2020)

Order made in
W.P. (MD) No. 26186 of 2019
Dated: 28.02.2020

TR(11.03.2020)3P 7C