



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.20157, 20160, 20164 of 2021
and

W.M.P.Nos.21426, 21429 & 21431 of 2021
(Through Video Conferencing)

1.Sr.W.Vasanthapriya	...Petitioner in WP.20157/21
2.Sr.A.Rani	...Petitioner in WP.20160/21
3.Mrs.A.Annai Velanganni	...Petitioner in WP.20164/21

Vs

1.The Commissioner for School Education, Directorate of School Education, DPI Campus, College Road, Chennai - 600 006.	
2.The District Educational Officer, The Office of the District Elementary Educational Officer, Vellore, Vellore District.	
3.The Block Educational Officer, The Office of the Block Educational Officer, Anaicut Block, Pallikonda, Vellore District.	
4.The Correspondent, Little Flower Aided Elementary School, Pallikonda, Anaicut Block, Vellore - 635 809.	... Respondents in all wps.

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to act upon the order of this Hon'ble Court dated 24.08.2016, and reported in (2016) 7 MLJ 155 Secretary to Government Vs. S.Jeyalakshmi, in the batch of writ petitions, to regularize the service of the petitioners with all service monetary benefits.

For Petitioners: Ms.A.Arul Mary
for M/s.Father Xavier Associates

For Respondents:

For R1 to R3 : Mr.L.S.M.Hasan Fizal
Government Advocate



COMMON ORDER

The learned Government Advocate for the first to third respondents fairly submits the issue is now squarely covered by plethora decisions of this Court including that of the latest decision of this Court dated 26.08.2021 in the case of Mrs. Flora Motcha Rakini.B Vs The Government of Tamil Nadu, The Department of School Education (C2), Chennai and others in W.P.Nos.17887, 17888 & 17891 of 2021. The aforesaid writ petition was disposed in the light of the decision of the Hon'ble Division Bench of this Court in Secretary to Government, Government of Tamil Nadu & others Vs S.Jeyalakshmi & another and Pramati Educational & Cultural Trust Vs Union of India, 2016 4 L.W.841. Relevant portion from the order in Secretary to Government, Government of Tamil Nadu & others Vs S.Jeyalakshmi & another reads as under:-

"58.In our opinion, non qualifying in TET by the Teachers already in service should not defeat the object of the Government to provide quality and standard education and therefore, the Government may, in the alternative, conduct a refresher course and also some interactive sessions during annual vacation, in order to ensure and enhance the quality of education.

59.Insofar as minority institutions are concerned, the contention of the learned senior counsel appearing for the minority Schools in that when Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 received the assent of the President of India and it is still in force, it cannot be supplanted by an Executive Order, namely by G.O.Ms.No.181 dated 15.11.2011. Further, the Apex Court has clearly held in Pramati Educational & Cultural Trust that RTE Act, 2009 is not applicable to the minority institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30(1) of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181 dated 15.11.2011, which was issued pursuant to the directions of NCTE, cannot be made applicable to the minority institutions.

60.In the light of the above, we are of the view that the Government cannot insist upon the minority institutions, both aided or unaided, to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School



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Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, G.O.Ms.No.76 dated 18.03.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.

61.Though the intention of the Government is that there should not be any discrimination among the Teachers working in non-minority Schools and minority schools with respect to qualification and that there should be uniformity in the teaching imparted to the children, in view of the decision of the Apex Court in Pramati Educational & Cultural Trust, the Government cannot take shelter under the guise of discrimination to impose restrictions on minority institutions.

62.However, keeping in mind the larger interest in which the government has issued the above G.Os., this Court feels that the minority institutions may also consider conducting a refresher course and also some interactive sessions to all the Teachers during annual vacation, in order to ensure and improve the quality of teachers.

63.In the result, the writ petitions are allowed and the writ appeals are dismissed with a direction to the Government to release the salary of the Teachers and also to pay the arrears of salary within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected M.Ps. are closed."

2. Since the issues is squarely covered by the decisions, this Writ Petition deserves to be allowed. Accordingly, it stands allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar



arb/nst

To

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- 1.The Commissioner for School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 2.The District Educational Officer,
The Office of the District Elementary Educational Officer,
Vellore,
Vellore District.
- 3.The Block Educational Officer,
The Office of the Block Educational Officer,
Anaicut Block,
Pallikonda, Vellore District.

+1cc to M/s.Father Xavier Associates, Advocate, S.R.No.49118
+1cc to the Government Pleader, S.R.No.49483
+2cc to M/s.Father Xavier Associates, Advocate, S.R.No.49118
(10/11/2021)

W.P.Nos.20157, 20160, 20164 of 2021
and
W.M.P.Nos.21426, 21429 & 21431 of 2021

RGN(CO)
CB(18/10/2021)