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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.25956 of 2017
and W.M.P.Nos.27534 & 27535 of 2017

E.Angeline Jeba Priya

...Petitioner

Vs

1. Director of Elementary Education,
Chennai-600 006.

2. District Elementary Educational Officer,
Vellore, Vellore District.

3. Assistant Elementary Educational Officer,
Pernambut Range, Vellore District.

4. Correspondent,
IELC Schools,
Perambut & Gudiyatham Range,
Vellore District.

5. Secretary,
Education Committee,
Ambur Synod, IELC,
Ambur, Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, or any other appropriate Writ or Order or Direction, in the nature of Writ, calling for the records pertaining to the order passed by the 3rd Respondent in his Proceedings Na.Ka.No.754/A1/2017 dated 16-08-2017 confirming the order passed by the 2nd Respondent in his Proceedings A.Thi.Mu.No.2252/A2/2017 dated 07-08-2017 and quash the same, and direct the Respondents approve the appointment of the petitioner as B.T. Assistant from 07.06.2017 and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/S.C.S.Associates

For R1 to R3 : Ms.P.Raja Rajeswari
Government Advocate

For R4 : Mr.B.Balavijayan

For R5 : Mr.B.Gopalakrishnan



ORDER

The petitioner's appointment dated 06.06.2017 as BT Assistant was forwarded by the 5th respondent herein to the Educational Authorities for the purpose of approval and on 11.06.2017, it was rejected through the impugned proceedings dated 11.7.2017, on the ground that petitioner did not qualify in the Teacher Eligibility Test (TET).

2. The issue as to whether passing of TET is a pre-requisite for granting approval of the appointment of a Teacher in a Minority institution is no more res integra.

3. In one such decision of the Honourable Division Bench of this Court, in the case of the Director of School Education and others Vs. J.Prabha Vinothini and another, taken in W.A.(MD). Nos.791 of 2020 and batch, this proposition was reiterated in the following manner.

"4. The learned Single Judge had taken up all the Writ petitions together and disposed of the same vide common order dated 26.02.2019 and it is relevant to extract the same hereunder:

"3.The learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents submitted that in similar circumstances, this Court, by order, dated 26.07.2018 in W.P(MD)No.16428 of 2018, at paragraph Nos.7 and 8 held as follows:-

"7.In this case also, the petitioner was appointed in the fourth respondent School, which is admittedly a recognised minority aided School. The appointment also has been made within the sanctioned strength and the petitioner claimed that, he is having every qualification to hold the post. When that being the position, as no other reason has been given in the impugned order, except the reason of TET qualification, that too, citing the reason that, no guidelines given by the first respondent/Director to the lower level approving authorities to approve such appointment without TET qualification, this Court is of the firm view that the impugned order cannot be sustained and it is liable to be quashed. 8.In the result:-



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(i) the impugned order is quashed and the Writ Petition is allowed;

ii) the matter is remitted back to the respondents, especially, the second respondent, who shall pass necessary orders with regard to the grant of approval to the petitioner's appointment, as no other impediment has been cited in the impugned order, except the guidelines to be issued by the Director for making approval of the Teachers, who have been appointed in the minority aided School without TET qualification;

(iii) Such orders of approval shall be passed within a period of four weeks from the date of receipt of a copy of this order; and

(iv) It is needless to mention that, once the approval is given, the petitioner is entitled to get all service and monetary benefits, as per the eligibility and the same shall also be paid to the petitioner forthwith." 5. The learned Special Government Pleader appearing for the appellants/official respondents would submit that the fact remains that, the passing of Teacher Eligibility Test is for the benefit of students for whom the education is important and therefore, it is obligatory on the part of the private respondents/Writ petitioners to clear the same and the said aspect has not been taken into consideration and it is also against the judgment of the Constitution Bench of the Honourable Supreme Court in T.M.A.Pai Foundation & Ors vs State Of Karnataka & Ors reported in LNIND 2002 SC 740. 6. Per contra, Mr.S.Chellapandian, learned Counsel appearing for the private respondents/Writ petitioners would submit that in the light of yet another judgment of the Constitution Bench of the Honourable Supreme Court in Pramati Educational and Cultural Trust and others v. Union of India and others reported in 2014 (8) SCC 1 : 2014 4 MLJ 486, passing of Teacher Eligibility Test is not necessary in respect of Teachers employed in minority institution, especially, religious minority institution and as such, the common impugned order do not warrants interference.



6. In the light of the above observations, the impugned order passed by the 3rd Respondent in his Proceedings Na.Ka.No.756/A1/2017 dated 16-08-2017 confirming the order passed by the 2nd Respondent in his Proceedings A.Thi.Mu.No.2252/A2/2017 dated 07-08-2017, are set aside. Consequently, there shall be a direction to the **(*) 2nd Respondent** to pass orders approving the appointment of the petitioner dated **(*) 07/06/2017**, within a period of 4 weeks from the date of receipt of a copy of this order. The connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)
Dated:03/01/2022

(*)Corrected as per the order
of this Court dated 04/02/2022
for being Mentioned in
W.P.No.25956 of 2017
Sd/-
Assistant Registrar(CS-IV)
Dated:07/02/2022

//True Copy//

Sub Assistant Registrar

gd

To

1. Director of Elementary Education,
Chennai-600 006.
2. District Elementary Educational Officer,
Vellore,
Vellore District.
3. Assistant Elementary Educational Officer,
Pernambut Range,
Vellore District.
4. Correspondent,
IELC Schools,
Perambut & Gudiyatham Range,
Vellore District.

To be substituted
the order already
despatched on
28/01/2022



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5. Secretary,
Education Committee,
Ambur Synod, IELC,
Ambur, Vellore District.

+1cc to M/s.C.S. Associates, Mr.P.Ganesan, Advocate, **S.R.No.7195**
+2cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.67363
+1cc to the Government Pleader, S.R.No.67917

W.P.No.25956 of 2017

NR(CO)
SB(04/01/2022)

br[co]
srg 07/02/2022