



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.11.2021**

CORAM:

WEB COPY

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.5571 of 2018

J.Ebenezer

...Petitioner

/Vs./

1.The Director of School Education,
DPI, Campus, College Road,
Chennai - 600 006.

2.The District Elementary Educational Officer,
District Elementary Education Office,
Virudhunagar District.

3.The Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Virudhunagar District.

4.The Correspondent,
CSI Primary School,
Aathipatti,
Arupukottai,
Virudhunagar District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to approve the appointment of the petitioner with effect from the date of appointment i.e., 01.07.2015 and direct the 2nd respondent to disburse the salary of the petitioner for the period from 01.07.2015 to June 2016.

For Petitioner : Mr.S.Anwar Sameem
for Mr.C.Fernadas Rathinaraja

For R1 to R3 : Mr.K.S.Selvaganesan
Standing Counsel for State



ORDER

The petitioner was appointed as Secondary Grade Assistant in the fourth respondent School (R4) on 01.07.2015 in a vacancy in a sanctioned post, caused by the transfer with promotion, of one N.Violet Packiaselvi. R4 is a Government Aided Minority institution run by the CSI Diocese of Madurai Ramnad.

2.The petitioner seeks a mandamus directing R2 being the District Elementary Educational Officer/DEEO to approve the appointment of the petitioner with effect from the date of his appointment and disburse the salary of the petitioner for the period from 01.07.2015 to June 2016.

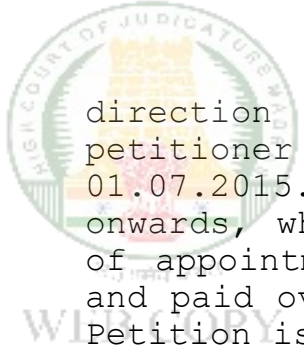
3.With coming into force of the Right of Children to Free and Compulsory Education Act, 2009 (Act/RTE Act), the Government of Tamil Nadu mandated that teachers acquire a Teachers Education Training qualification (TET) within a period of five years from the commencement of the Act. A challenge came to be laid by minority institutions to the application of the RTE Act to their institutions and the Hon'ble Supreme Court, in its Judgment in the case of *Society for Unaided Private Schools of Rajasthan Vs.Union of India* (2012 (6) SCC 1) held that the aforesaid enactment would not be applicable, insofar as minority institutions are concerned.

4.The petitioner had also filed a writ petition in W.P.(MD) No.499 of 2016 challenging the order that had been passed by R3 ie., Assistant Elementary Educational Officer rejecting the proposal for regularisation of his services and disbursal of salary on the ground that he did not possess TET qualification.

5.Aforesaid writ petition came to be disposed on 14.07.2016 by this Court directing R3 to grant temporary approval in favour of the petitioner for the post of Secondary Grade Assistant and also directing that he be paid his salary from date of the order, being 14.07.2016. Learned counsel for the petitioner would submit that this order is being complied with.

6.The Judgment of the Hon'ble Supreme Court referred to in paragraph 3, has been applied by the Division Bench of this Court, in *S.Jeyalakshmi and others Vs. Director of Elementary Education and others* [2016 (5) CTC 639]. The ratio of the aforesaid decision is to the effect that the provisions of the RTE Act would not impinge upon the functioning of Minority Education Schools, as a consequence of which, there is no necessity for its faculty members to obtain TET qualification.

7.In the light of the narration as aforesaid, there is no impediment for grant of mandamus as sought for by the petitioner. A



direction is thus issued to R4 to approve the appointment of the petitioner with effect from the date of his appointment being 01.07.2015. Since the petitioner has received salary from 14.06.2016 onwards, what remains is for disbursal of the salary from the date of appointment ie., 01.07.2015 till 14.06.2016. This be computed and paid over within a period of eight weeks from today. This Writ Petition is allowed as above. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Director of School Education,
DPI, Campus,
College Road,
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+1 CC to M/s.SPL.GP (SR-34288[F] dated 12/11/2021)

W.P. (MD) No.5571 of 201811.11.2021

MGJ(08.12.2021) 3P 6C

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