



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.26172 of 2021

G.Prasanth

.. Petitioner

vs.

1.The Director of School Education,
College Road, Chennai-6.

2.The Chief Educational Officer,
Kanchipuram, Kanchipuram District.

3.The District Educational Officer,
Kanchipuram, Kanchipuram District.

4.The Correspondent,
Sri Dhandapani Oriental Higher Secondary School,
Kanchipuram-631 502. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the second respondent vide O.Mu.No.8073/Aa5/2019 dated Nil.12.2020 signed on 30.12.2020 and quash the same and direct the 2nd respondent to approve the appointment of the petitioner as Sanskrit Pandit w.e.f. 03.06.2019, with all consequential monetary benefits, in the 4th respondent school.

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.V.Manoharan,
Addl. Government Pleader for R1 to R3

O R D E R

The petitioner, challenging the impugned order of the second respondent dated 30.12.2020, rejecting to approve the appointment of the petitioner as Sanskrit Pandit w.e.f. 03.06.2019, has filed the present writ petition.

2. The case of the petitioner is that the fourth respondent is an aided non-minority institution and a vacancy arose for the post of Sanskrit Pandit on 02.05.2013, due to sudden demise of earlier incumbent holding the said post. The Chief Educational Officer, by order dated 13.02.2019, has granted permission to fill up the said sanctioned post. In pursuance thereof, the fourth respondent school management notified the vacancy in the District Employment Exchange and also issued paper advertisement. The School Management



conducted an interview and the petitioner was appointed as Sanskrit Pandit on 29.05.2019 and the petitioner joined the said post on 03.06.2019. Thereafter, the school management submitted a proposal to the second respondent on 26.06.2019, however the said proposal was returned, directing the school management to furnish additional particulars. The fourth respondent school management once again resubmitted the proposal for approval of the appointment of the petitioner, however, vide impugned order dated 30.12.2021, the second respondent rejected to approve the appointment of the petitioner on two grounds namely (i) that the petitioner did not qualify Teacher Eligibility Test (TET) and (ii) there is no equivalence certificate, certifying that Siksha Sastry Certificate of the petitioner to be equivalent to B.Ed. Challenging the same, the petitioner has filed the present writ petition.

3. The second respondent has filed a counter affidavit that the second respondent while granting permission to fill up the vacant sanctioned posts, has stipulated that TET is mandatory to recruit B.T. Assistants and Sanskrit Pandit as per RTE Act, 2009 and the fourth respondent has violated the condition under which permission was granted to appoint Sanskrit Pandit by the second respondent. It is further stated in the counter affidavit that there is no specific section for exemption from TET for Sanskrit Pandit and since the petitioner has not qualified the requisite qualification, as per the permission of the second respondent to fill up the Sanskrit Post, he cannot be appointed in the said post and he has no right to claim appointment for the said post.

4. The learned counsel for the petitioner contends that Sanskrit is not included in the syllabus prescribed by the Government for writing TET Examination, as per the information obtained by the petitioner under RTI Act and therefore, the second respondent cannot expect the petitioner to pass in TET Examination, which is yet to be conducted by the Government.

5. However, Mr.V.Manoharan, learned Additional Government Pleader for the respondents 1 to 3 submits that no separate TET examination is conducted for Sanskrit and only common test is conducted.

6. Admittedly, in the case on hand, the petitioner was appointed as Sanskrit Pandit on 03.06.2019 and the proposal sent by the fourth respondent school management for approval of the appointment of the petitioner was rejected by the second respondent on the ground that the petitioner did not pass TET for appointment of Sanskrit Pandit and that the petitioner have not furnished equivalence certificate for Siksha Shastri (B.Ed.,) obtained in other State.



7. Section 23(2) of the RTE Act, 2009 stipulates that teachers, who, at the commencement of the Act, does not possess minimum qualification of pass in TET shall acquire such minimum qualification within a period of five years. The said period was subsequently extended for a further period of four years till 31.03.2019 as per the RTE (Amendment Act), 2017 and thereafter, the Central Government declined to grant further extension of time. Thereafter, the Principal Secretary to Government, School Education Department, Chennai-9, vide Letter No.2343/MS/2019-1 dated 02.05.2019 has issued instruction to Director of School Education, Elementary Education and Matriculations Schools that since the Government of India, Ministry of Human Resource Development, Department of School Education has not extended the time limit, requested to take necessary action relating to teachers who have not acquired minimum qualification as prescribed in Section 23 of RTE Act, 2009 and ensure compliance and a report on action taken may be sent to the Government before commencement of the academic year.

8. This Court, based on the aforesaid statutory position, in the recent order dated 07.04.2022 in W.P.Nos.28284 of 2021 etc., batch [K.Vasudevan v. The Principal Secretary to Government, School Education Department, Secretariat, Fort St.George, Chennai-600 009] has categorically observed that the teachers, who do not possess the minimum qualification of pass in TET are not entitled to continue their service in the schools/educational institutions. The second respondent has also categorically stated in the counter affidavit that there is no specific provision under the Act, granting exemption from writing TET for appointment to the post of Sanskrit Pandit. Though the petitioner has relied upon the information obtained by him under RTI Act stating that Sanskrit is not included in the syllabus prescribed by the Government for writing TET Examination, however it does not say that exemption is granted for writing TET Examination in case of Sanskrit Pandit.

9. In the light of the statutory provision as observed in the aforesaid decision of this Court, this Court finds no merit to interfere in the impugned order passed by the second respondent.

10. This Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar



To

1.The Director of School Education,
College Road, Chennai-6.

2.The Chief Educational Officer,
Kanchipuram, Kanchipuram District.

3.The District Educational Officer,
Kanchipuram, Kanchipuram District.

+1 cc to Mr.S.N.Ravichandran, Advocate Sr.NO. 26795

+1 cc to Government Pleader Sr.NO. 26784

W.P.No.26172 of 2021

MG(CO)

A.SK(25/04/2022)