



W.P.(MD) No.6013 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.6013 of 2022
and W.M.P.(MD).No.4680 of 2022

M.Jesu Mathew Benno

... Petitioner

Vs.

**1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.**

**2.The District Educational Officer,
Tirunelveli, Tirunelveli District.**

**3.The Correspondent,
St. Antony's High School,
Pettai, Tirunelveli,
Tirunelveli District.**

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent District Educational Officer, in O.Mu.No.4592/B5/2021, dated --.01.2022, quash the same and further direct the respondents 1 and 2 herein to sanction forthwith the annual



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increments and other allowances towards the salary of petitioner as BT Assistant Science in the 3rd respondent school from the date of his appointment i.e., 12.04.2018.

For Petitioners : Mrs.A.Amala

For Respondents : Mr.S.Shaji Bino for R1 and R2

Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

2.The petitioner herein was appointed as BT Assistant (Science) in the third respondent school, which is a Minority Aided Institution. The requirement of passing of Teachers Eligibility Test in a Minority Institution cannot be made as a pre-condition for granting of annual increments insofar as it pertains to a Teacher in Minority Institution. This ratio has been reiterated in various decisions of the Honourable Supreme Court as well as this Court evidencing from the case of the ***Pramathi Educational and Cultural Trust and Others Vs. Union of India*** reported in ***2014 (4) MLJ 486***. The decision of the Honourable Supreme Court came to be followed by a Honourable



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WEB C Division Bench of this Court in the case of ***State of Tamil Nadu Vs. The Correspondent, Christhuraja Higher Secondary School, Palayamkottai, Tirunelveli District*** in W.A.(MD).Nos.642 and 643 of 2020, dated 27.08.2020.

The relevant portion reads as follows:

“6. The sole question that arises for consideration is as to the insistence of the appellants/official respondents the requirement of Teacher Eligibility Test (in short 'TET') by the Teachers, namely, Sr.G.Irudaya Mary and S.Valarmathi?

*7. The learned Judge, in the impugned common order, dated 17.10.2019, had taken note of the judgment rendered by the Constitution Bench of the Honourable Supreme Court in **Pramati Educational and Cultural Trust and others v. Union of India** reported in **2014 (4) MLJ 486** as well as the judgment of the Division Bench of this Court in **Secretary to Government v. S.Jeyalakshmi** reported in **2016 (5) CTC 639**, wherein a proposition has been held that passing of TET is not necessary for the Teachers appointed in Minority Institutions and further recorded a finding that the said two Teachers, namely, Sr.G.Irudaya Mary and S.Valarmathi, were appointed*



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by the respondent/writ petitioner on 15.09.2010 and 01.02.2011 respectively, i.e., prior to the date of issuance of the Government Order and as such, G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, has no application to the respondent/writ petitioner Minority Institution.

8. Though it is the vehement and forceful submission of the learned Special Government Pleader appearing for the appellants/official respondents as to the mandatory nature of passing of TET by the Teachers employed in the respondent's/writ petitioner's Religious Aided Minority Institution, in the considered opinion of this Court, in the light of the ratio laid down by the Constitution Bench of the Honourable Supreme Court in Pramati Educational and Cultural Trust and others v. Union of India (cited supra), followed by the Division Bench of this Court in Secretary to Government v. S.Jeyalakshmi (cited supra), passing of TET is not necessary to the Teachers appointed in the Minority Institutions and that apart, the Teachers in question have been appointed on 15.09.2010 and 01.02.2011 respectively, i.e., prior to the date of issuance of the Government Order in G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011.



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The learned Judge has rightly reached the conclusion that G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, has no application to the respondent/writ petitioner/Minority Institution.

9. The learned Counsel for the respondent/writ petitioner/Minority Institution has also reiterated the stand taken by them in the writ petitions before the learned Single Judge.”

3. In the instant case, the respondents, through the impugned order dated 06.01.2022, have rejected the petitioner's claim for grant of annual increments on the ground that he had not qualified in the Teachers Eligibility Test. Such a reasoning cannot be sustained in view of the aforesaid decisions, which has been made inapplicable insofar as the Teachers of a Minority Educational Institution are concerned.

4. Accordingly, the impugned order passed by the 2nd respondent / the District Educational Officer, in O.Mu.No.4592/B5/2021, dated --.01.2022, is hereby quashed. Consequently, there shall be a direction to the respondents 1 and 2 to sanction the annual increments and other allowances towards the



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salary of the petitioner as BT Assistant (Science) in the third respondent school from the date of his initial appointment i.e., from 12.04.2018, within a period of six weeks from the date of receipt of a copy of this order.

5. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order/ Non Speaking Order

TM

To

- 1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli, Tirunelveli District.



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M.S.RAMESH,J.

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