



WP(MD)No.19067 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.19067 of 2022

and

W.M.P.(MD)No.13926 of 2022

S.Packia Ruby

... Petitioner

/vs./

1.The District Educational Officer,
Tenkasi, Tenkasi District.

2.The Block Educational Officer,
Alangulam, Tenkasi District.

3.The Correspondent,
T.D.T.A.Primary and Middle Schools,
Nallur Pastorate, Alangulam Taluk,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings dated 15.04.2021 in A.Thi.Mu.No.1208 / A1 / 2021 of the 1st respondent and quash the same and consequently direct the respondents 1 and 2 herein to approve the petitioner's appointment as Secondary Grade teacher w,e.f 02.04.2019 with all attendant benefits including the arrears of salary and allowance.



WP(MD)No.19067 of 2022

WEB COPY

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.A.Kannan

Additional Government Pleader (for R1 & R2)

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The third respondent school is a Minority Aided Educational Institution. The petitioner herein was appointed as a Secondary Grade Teacher in the third respondent's School on 02.04.2019 in the sanctioned vacancy that arose due to transfer of another teacher. The third respondent school had submitted a proposal to the District Educational Officer herein, seeking for approval of the petitioner's appointment with effect from 02.04.2019, which was rejected on the ground that the petitioner had not passed the Teachers Eligibility Test (TET).

3.The reasoning assigned by the respondents that the proposal cannot be accepted for want of TET qualification has also been dealt with by this Court in



WP(MD)No.19067 of 2022

WEB COPY

several writ petitions, wherein it was held that the pre-requirement of TET qualification for a teacher in a Minority Institution, is not mandatory.

4.In one such decision of this Court in the case of **J.D.Christopher Asir Vs. The Director of School Education, DPI Campus, College Road, Chennai and others** in **W.P.(MD).No.13935 of 2018**, dated **29.06.2018**, this proposition was held in the following manner:

“9.The issue of requirement of TET qualification for any teacher employed or appointed in a school run by the minority management can no longer be res integra as in a number of cases, the said requirement directed not to be insisted upon. In this regard, as has been pointed out by the learned counsel appearing for the petitioner, the issue has been decided in a judgment of Division Bench of the Principal Seat of this Court in the matter of Secretary to Government, Government of Tamil Nadu, Education Department and others Vs. S.Jeyalakshmi and another reported in (2016) 7 MLJ 155.

10.In the said judgment, the Hon'ble Division Bench has made it clear that the requirement of TET qualification cannot be insisted upon from the teacher working in minority institutions and in this regard a view expressed by the Division Bench and the law held thereon are extracted hereunder:-



WP(MD)No.19067 of 2022

WEB COPY

“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 is that when Tamil Nadu Recognized 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 and Cultural Trust V. Union of India (Supra) 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 institution, 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 Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu, is not



WP(MD)No.19067 of 2022

WEB COPY

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.”

11.Following the said judgment of the Division Bench, a number of orders have been passed in similar situations, where the teachers appointed in minority institutions / schools sent for approval to the authorities, where the said approval had been rejected on the ground that those teachers did not have the TET qualification.”

Thus, the respondents may not be legally justified in insisting that the petitioner, who is a teacher in Minority Institution, should have passed the TET.

5.For all the foregoing reasons, the impugned order passed by the 1st respondent herein vide A.Thi.Mu.No.1208 / A1 / 2021 dated 15.04.2021, is hereby quashed. Consequently, the third respondent herein is called upon to resubmit the proposal to the first respondent herein and on receipt of such proposal, the first respondent herein shall pass appropriate orders approving the appointment of the petitioner to the post of Secondary Grade Teacher with effect from 02.04.2019. Such orders shall be passed, atleast within a period of six (6) weeks from the date of receipt of re-submission of the proposal.



WP(MD)No.19067 of 2022

WEB COPY

6. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2022

Index : Yes / No
Internet : Yes / No
sm



WP(MD)No.19067 of 2022

WEB COPY

TO:

- 1.The District Educational Officer,
Tenkasi, Tenkasi District.
- 2.The Block Educational Officer,
Alangulam, Tenkasi District.
- 3.The Correspondent,
T.D.T.A.Primary and Middle Schools,
Nallur Pastorate, Alangulam Taluk,
Tenkasi District.



WEB COPY



WP(MD)No.19067 of 2022

M.S.RAMESH, J.

Sm

Order made in
W.P.(MD)No.19067 of 2022

Dated:
22.08.2022