



W.P.No.7536 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

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

**W.P.No.7536 of 2022**

D.Buela Priyadharshini

...Petitioner

Vs

1. The Commissioner of School Education  
DPI Campus, College Road  
Chennai – 600 006
2. The Chief Educational Officer  
Chennai District  
Presidency Girls Higher Secondary School Campus  
Egmore, Chennai – 600 008
3. The District Educational Officer  
Chennai East Education District  
Triplicane  
Chennai – 600 005
4. The Diocesan Education Officer and Convener  
CSI Diocese of Madras  
The Diocean Office  
P.B.No.4914, Chennai – 600 086
5. The Correspondent  
CSI Northwick Girls Higher Secondary School  
Royapuram



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Chennai – 600 013

...Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents 1 to 3 to pass orders for granting approval of appointment of the petitioner in the sanctioned post of B.T. Assistant (Tamil) in the 5<sup>th</sup> respondent school with effect from 17.06.2013 based on the proposal submitted by the 5<sup>th</sup> respondent school with all consequential and other attendant benefits, including the arrears of salary from the date of initial appointment on 17.06.2023 within a time frame to be fixed by this Court.

For Petitioner : Mr.J.Jayamalan

For Respondents : Mr.M.Bindran  
Additional Govt. Pleader for R1 to R4  
R5- Served No appearance

### **ORDER**

Heard Mr.J.Jayamalan, learned counsel on record for the petitioner and Mr.M.Bindran, learned Additional Government Pleader for Respondents 1 to 4.

2. Though notice has been served on the fifth respondent school and name of the fifth respondent school has been printed in the cause list, none appears on their behalf.



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3. The limited prayer sought for in the writ petition is for a direction to the official respondents to grant approval for the appointment of petitioner for the sanctioned post of BT Assistant. According to the petitioner, when a sanctioned vacancy arose due to the retirement of an earlier teacher on 31.05.2013, the petitioner was appointed on 17.06.2013 in the vacancy as a BT Assistant (Tamil). The fifth respondent school had sent a proposal to the third respondent on 06.09.2013, which was resubmitted on 06.01.2022, seeking for approval of petitioner's appointment. Since the proposal was not considered within a reasonable time, the present writ petition has been filed.

4. In the counter affidavit filed by the third respondent, it is stated that since the petitioner had not qualified in the Teachers Eligibility Test (TET), her appointment cannot be approved. This reason cannot be legally sustained owing to many decisions of this Court relying upon the decision rendered by the Constitutional Bench of Hon'ble Supreme Court in the case of *Pranati Educational and Cultural Trust & Ors. Vs. Union of India* reported in (2014) 8 SCC 1 in which it was held that the provisions of Right to Education Act, 2009 will not apply to minority schools and therefore, eligibility of TET pass as required for appointment



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of teachers in non-minority schools, will not apply to minority schools.

As such, the reason assigned by the third respondent in the counter affidavit for not considering the fifth respondent's proposal cannot be sustained.

5. Accordingly, this writ petition stands allowed and there shall be a direction to Respondents 1 to 3 to forthwith pass orders on the fifth respondent's proposal dated 06.09.2013, which was resubmitted on 06.01.2022 approving the petitioner's appointment with effect from 17.06.2013 and disburse the grant to fifth respondent's school. Such order shall be passed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

**14.12.2023**

Index:Yes  
Speaking order  
gpa



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To  
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**M.S.RAMESH,J.**

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