



W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos. 846 of 2020, 12773,12774 & 20350 of 2021
and
WMP(MD) Nos.622 to 624 of 2020 , 5428 of 2021
in W.P(MD) No.846 of 2020

W.P(MD) Nos. 846 of 2020:-

P.Ganesan

Petitioner

Vs

1.The District Educational Officer,
Tuticorin District.

2.The Block Educational Officer,
Kovilpatti,
Tuticorin District.

3.The Secretary,
Gomathi Hindu Elementary School,
Mandhithoppu,
Kovilpatti,
Tuticorin District.

Respondents



W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

WEB CO W.P(MD) No.12773 of 2021:-

A.Balamurugan

Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai – 9.

2.The Director of School Education,
D.P.I. Campus,
College Road,
Chennai.

3.The District Educational Officer,
Sankarankovil,
Tenkasi District.

4.The Block Educational Officer,
Vasudevanallur,
Tenkasi District.

5.Gurupackiam Elementary School,
Rep by its Secretary,
Vellanaikottai,
Sivagiri Taluk,
Tenkasi District.

Respondents



W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

WEB COPY W.P(MD) No.12774 of 2021:-

G.Malathi

Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai – 9.

2.The Director of School Education,
D.P.I. Campus,
College Road,
Chennai.

3.The District Educational Officer,
Sankarankovil,
Tenkasi District.

4.The Block Educational Officer,
Vasudevanallur,
Tenkasi District.

5.Agasthiya Elementary School,
Rep by its Secretary,
Vasudevanallur,
Sivagiri Taluk,
Tenkasi District.

Respondents



W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

W.P(MD) Nos. 20350 of 2021:-

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Jessy Francis Vinnarasi

Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by its Secretary to Government,
Department of School Education,
Fort St.George,
Chennai – 9.
- 2.The Commissioner of School Education,
DPI Campus,
Chennai -6.
- 3.The Chairman,
Teachers Recruitment Board,
DPI Campus,
Chennai – 6.
- 4.The District Educational Officer,
Tiruchendur,
Thoothukudi District.
- 5.The Block Educational Officer,
Alwarthirunagari at Thenthiruperai,
Thoothukudi District.
- 6.The Secretary,
Malar Primary School,
Velancolony,
Alwarthirunagari,
Tiruchendur Taluk,
Thoothukudi District.

Respondents



W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

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PRAYER in W.P(MD) No. 846 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in Na.Ka.No.1919/A2/2019, dated 16.09.2019 and the consequential order passed by the second respondent in his proceedings in Na.Ka.No.1254/A4/2019, dated 25.10.2019 and quash the same and direct the respondents to release the salary from 23.08.2019 with all consequential benefits.

COMMON PRAYER in W.P(MD) Nos.12773 & 12774 of 2021:

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 herein from compelling the petitioner to acquire a pass in Teachers Eligibility Test (TET) for continuance in the post of Secondary Grade Teacher in the fifth respondent School by taking note of the petitioner's appointment on 21.07.2011, 31.03.2011 prior to the issuance of G.O.Ms No.181, School Education, dated 15.11.2011 and to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner from the date of petitioner's appointments namely 21.07.2011 and 31.03.2011.



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PRAYER in W.P(MD) No.20350 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents 1 to 5 from compelling the petitioner to acquire a pass in TET to continue the post of Secondary Grade Teacher in 6th respondent School in view of the petitioner's appointment date on 01.06.2011 prior to the issuance of G.O.Ms.No. 181, School Education Department, dated 15.11.2011.

For Petitioner :Mr.T.Pon Ramkumar
For Respondents :Mr.S.Saji Bino
Special Government Pleader
(In W.P(MD) Nos.12773 & 12774 of 2021)

For Petitioner :Mr.V.Paneer Selvam
For R1 & R2 :Mr.A.K.Manickam
Government Advocate (Civil)
For R3 :No appearance
(In W.P(MD) No.846 of 2020)

For Petitioner :Mr.T.A.Ebenezer
For R1 to R5 :Mr.V.Nirmal Kumar
Government Advocate (Civil)
For R6 :No appearance
(In W.P(MD) No.20350 of 2021)



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W.P(MD)Nos.846 of 2020, 12773, 12774 & 20350 of 2021

COMMON ORDER

W.P(MD) Nos.12773 & 12774 of 2021 and W.P(MD) No.20350 of 2021 are filed for issuance of a writ of mandamus forbearing the respondents from compelling the petitioners to acquire a pass in TET for continuance in the post of Secondary Grade Teacher in the respective respondent schools that the petitioner's appointment was prior to the issuance of the Government Order in G.O.Ms.No.181, School Education Department, dated 15.11.2011.

2.W.P(MD) No.846 of 2020 is filed as against the impugned orders in Na.Ka.No.1919/A2/2019, dated 16.09.2019 and in Na.Ka.No.1254/A4/2019, dated 25.10.2019, stopping the salary to the petitioner, and to direct the respondents to release the salary from 23.08.2019 with all consequential benefits to the petitioner.



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3.Since the issue involved in these writ petitions are similar in nature, all these writ petitions are taken up together and dispose of by way of this common order.

4.These petitioners are appointed in the private aided schools without the qualification of TET, prior to the issuance of G.O.Ms.No.181, School Education Department, dated 15.11.2011.The Right of Children to Free and Compulsory Education Act, 2009 was enacted by the Parliament in the year 2009, in order to provide free and compulsory education to all children of the age group 6-14 years. The Right of Children to Free and Compulsory Education Act 2009 came into force with effect from 01.04.2010. As per section 23(1) of the Act, the Government prescribes a minimum qualification for a person to be eligible for appointment as a teacher and the National Council for Teacher Education (NCTE) has been appointed as the academic authority by the Government of India to lay down the minimum qualification for a person to be eligible for appointment as a teacher. NCTE has also



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prescribes certain qualifications by notification dated 23.08.2010, a pass in Teachers Eligibility Test(TET) is made as minimum qualification for appointment of teachers upto the standard VIII. As per Section 2(a) (ii) A of the Act, 2009, Government of Tamil Nadu is the appropriate Government for all the Schools in Tamil Nadu. The Government of Tamil Nadu issued G.O.Ms.No.181, School Education C2 Department, dated 15.11.2011, prescribing the qualification of the Teachers Eligibility Test (TET) as required qualification for appointment of teachers upto standard VIII.

5.The case of the petitioners is that they were appointed prior to the issuance of the Government Order in G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011 and therefore they can be exempted from the prescribed qualification, as per the above Government Order. The learned counsel for the petitioners submits that the Secretary to Government, School Education Department has issued a circular dated 21.11.2015, prescribing the cut off date for the required TET qualification to be acquired as



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15.11.2021 and the petitioners were appointed prior to the cut off date 15.11.2011. The petitioners' appointments were also approved and at the time of appointment or while granting approval, no conditions were imposed by the respondent aided institutions and at no point of time, the petitioners were not directed to acquire the qualification of TET. They are in service for a considerable period of time and without any prior notice or intimation, their salary is either stopped or increments were not provided that the petitioners are not having the required TET qualification. Hence, a suitable direction may be issued to the respondents not to compel the petitioners to acquire a pass in Teachers Eligibility Test (TET).

6.The learned counsel appearing for the respondents submits that the required qualification has been prescribed as per the constitution mandate on the Right of Children for free and compulsory Education. The Right of Children for free and compulsory Education Act, was enacted in order to provide free and compulsory education to all the children of the age group of 6 to 14



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years. The said Act came into force with effect from 27.08.2009 and was published in the Tamil Nadu Government Gazette by the Government of Tamil Nadu, with effect from 01.04.2010 that passing of RTE Act, it is now mandatory for all the State Governments to recruit Secondary grade teachers and BT Teachers only with TET qualification. The Government of Tamil Nadu has also issued G.O.Ms.No.181, School Education Department, dated 15.11.2011 to that effect. All these aided respondent institutions are receiving full aid from the Government of Tamil Nadu and therefore, the respondent schools are expected to abide by the Government orders and the rules and regulations of the Government. The requirement of Teachers Eligibility Test (TET) is to ensure the quality of education that has to be imparted on the children. It is also reiterated that the teachers, who are already in service at the commencement of the Act were permitted to pass TET within the time of 5 years from the date of introduction of the Act 2009. Therefore, these writ petitions are liable to be dismissed.



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7.This Court paid its anxious consideration on the rival submissions made and also perused the materials placed on record.

8.By 86th amendment of the Constitution, Article 21 A of the Constitution was inserted, which provides right to education as a fundamental right. The Honourable Supreme Court has also held that right to education is also right for quality education. The object of the Right to Education Act is to provide quality education to all the students. The Honourable Supreme Court in ***Andhra Kesari Educational Society Vs Director of School Education and others*** reported in ***AIR 1986 SC 987***, it was held as follows:-

“...The ill trained or substandard teachers would be detrimental to our educational system, if not a punishment on our children.”

In the Government order in G.O(Ms) No.181, School Education (C2) Department, dated 15.11.2011, it was clearly stated that the teachers, who at the commencement of this Act, do not possess minimum qualification as prescribed by the Academic Authority



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authorized by the Central Government shall acquire such minimum qualifications within a period of five years. Hence, the "Teacher Eligibility Test (TET)" would have to be conducted for recruiting teachers for the primary and upper primary classes. The teachers working in unaided private schools are required to pass Teachers Eligibility Test, within five years. The respondent schools are aided schools and they are bound by the rules and regulations of the Government issued then and there.

9.In view of the above, this Court is not inclined to entertain these writ petitions. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.01.2023

Index : Yes/No
Internet : Yes/No
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B.PUGALENDHI, J

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Common Order made in
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