



WEB COPY



W.P.(MD)No.16515 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD)No.16515 of 2016**

**and**

**W.M.P.(MD)No.12045 of 2016**

J.S.Sudha .

... Petitioner

VS.

- 1.The State of Tamil Nadu,  
represented by its Secretary,  
Department of School Education,  
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,  
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,  
Chief Educational Office,  
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,  
District Educational Office,  
Kuzhithurai,  
Kanyakumari District-629 163.



W.P.(MD)No.16515 of 2016

WEB COPY

5.The Correspondent,  
Amsi High School,  
Amsi,  
Thengapattanam Post-629 173,  
Kanyakumari District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the 4<sup>th</sup> respondent pertaining to is order bearing Na.Ka.No.5264/A2/2016, dated 24.08.2016 and to quash the same and consequently, to direct the respondents to approve the appointment of the petitioner as School Assistant (English) in the 5<sup>th</sup> respondent school with effect from the date of appointment on 01.10.2011 with all attendant benefits within a stipulated time that may be prescribed by this Court by considering the proposal resubmitted by the 5<sup>th</sup> respondent, dated 18.08.2016.

For Petitioner : Mr.S.C.Herold Singh  
For R1 to 4 : Mr.V.Om Prakash  
Government Advocate  
For R5 : Mr.K.A.Thirumalaiappan

\*\*\*\*\*



WEB COPY



W.P.(MD)No.16515 of 2016

## **ORDER**

This writ petition is filed for writ of Certiorarified Mandamus, to quash order, dated 24.08.2016 passed by the 4<sup>th</sup> respondent and consequently, to direct the respondents to approve the appointment of the petitioner as School Assistant (English) in the 5<sup>th</sup> respondent school with effect from the date of appointment on 01.10.2011 with all attendant benefits within a stipulated time that may be prescribed by this Court by considering the proposal resubmitted by the 5<sup>th</sup> respondent, dated 18.08.2016.

2. The petitioner is qualified to be appointed as B.T. Assistant (English). The 5<sup>th</sup> respondent School is a linguistic minority school. A vacancy arose due to the promotion of one T.K.Geetha Kumari who was promoted as School Assistant from 15.06.2011. Hence, the B.T. Assistant (English) post became vacant from 01.10.2011. The 5<sup>th</sup>



W.P.(MD)No.16515 of 2016

WEB COPY

respondent submitted a letter, dated 01.02.2012. However, the respondents rejected the approval by citing various reasons. One such reason is that the petitioner is not possessing TET qualification and also the School has not submitted the staff fixation order.

3. The contention of the petitioner is that the 5<sup>th</sup> respondent School is a linguistic minority school and the Teachers of minority institutions need not possess TET qualification. As far as the staff fixation order the respondent is having one copy of the same. The petitioner is serving in the said post from the year 2011 onwards. Now the petitioner is aged about 50 and she has completed more than 10 years of service. On these two grounds, the petitioner is before this Court.

4. The contention of the petitioner that the Teachers engaged in the minority institution need not possess TET qualification cannot be



W.P.(MD)No.16515 of 2016

WEB COPY

entertained, since in T.M.A. Pai Foundation case the Eleven Judges Bench Hon'ble Supreme Court has held that the Government is empowered to prescribe the educational qualification for the Teachers serving in the minority institutions also. Therefore, TET qualification is necessary for all Teachers whether it is a minority or non-minority institution.

5. The issue of applicability of TET to minority school is pending before the Hon'ble Supreme Court. If the litigations ended up in favour of the petitioner, the petitioner would be entitled to as per the orders passed by the Hon'ble Supreme Court. Until then the petitioner may continue with salary alone and the petitioner is not entitled to other benefits.



W.P.(MD)No.16515 of 2016

6. As far as the staff fixation order is concerned the school shall submit the staff fixation order. And the school shall state the surplus Teachers before the authorities. Thereafter, the official respondents shall consider whether the School is having any surplus Teachers or not and take a decision in accordance with law. The respondents cannot keep the issue pending for more than 10 years. The 5<sup>th</sup> respondent School is directed to resubmit the proposal. Therefore, the respondents are directed to consider and pass order within a period of four weeks from the date of receipt of a copy of this order.

7. With the above said observation, the writ petition is disposed of.  
No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No  
Internet : Yes

**10.04.2023**



WEB COPY



W.P.(MD)No.16515 of 2016

NCC : Yes / No

Tmg

To

- 1.The Secretary,  
State of Tamil Nadu,  
Department of School Education,  
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,  
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,  
Chief Educational Office,  
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,  
District Educational Office,  
Kuzhithurai,  
Kanyakumari District-629 163.



WEB COPY



W.P.(MD)No.16515 of 2016

**S.SRIMATHY, J**

Tmg

W.P.(MD)No.16515 of 2016

10.04.2023