



W.P.(MD)No.1979 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1979 of 2016

and

W.M.P.(MD) Nos.1745 & 5874 of 2016

J.Nusrath Jahan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
School Education(C2) Department,
Fort St.George,
Chennai.
- 2.The Director of School Education,
College Road,
Chennai.
- 3.The District Educational Officer,
Office of District Educational Office,
Tirunelveli District.
- 4.The Assistant Educational Officer,
Office of District Educational Office,
Tirunelveli District.



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5.The Correspondent,
Rahmania Higher Secondary School,
Melapalayam, Tirunelveli.

... 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 order relating to the impugned order passed by the 3rd respondent in his proceedings in O.MU. No. 4190/A2/2012 dated 15.09.2014 quash the same as illegal and consequently direct the respondents to approve the Petitioner's appointment as a B.T. Assistant (English) in the 5th respondent school, within the time that may be stipulated by the Court.

For Petitioner : No appearance

For Respondent : Mr.V.Omprakash,
Government Advocate for R-1 to R-4

ORDER

This writ petition is filed challenging the impugned order, dated 15.09.2014 and consequently direct the respondents to approve the Petitioner's appointment as a B.T. Assistant (English).

2. There is no appearance on the side of the petitioner. Heard Mr.V.Omprakash, learned Government Advocate for 1 to 4 respondents and perused the material documents available on record.



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3. The petitioner was not approved since the petitioner is not possessing TET qualification. The contention of the petitioner is the 5th respondent is a minority Educational institution, TET cannot be insisted. As per the judgment of the Hon'ble Supreme Court in T.M.A.Pai Foundation & others v. State of Karnataka & others (2002) 8 SCC 481 the Government is empowered to prescribe qualification for teachers in order to maintain the standard of education. Therefore, the said contention of the petitioner cannot be sustained.

4. However, the issue of not possessing TET qualification is considered by the Hon'ble Division Bench of this Court in W.A.No.313 of 2022, wherein it has been held if any person is not possessing TET qualification prior to 29.07.2011, then the said person is not eligible for promotion, but can continue in service. But the person appointed after 29.07.2011 then the said person is not eligible to continue in the said post and are not eligible to be considered for any benefits. Since the petitioner is appointed after 29.07.2011, then the petitioner is not entitled to be approved.



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5. The issue of applicability of TET is still pending before the Hon'ble Supreme Court and hence the petitioner cannot claim any approval to the appointment.

6. Hence the writ petition is liable to be dismissed and hence the petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 1979 of 2016**

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