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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.04.2023

CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P(MD).No.8071 of 2016

and

W.M.P(MD).Nos.6592 & 6593 of 2016

The Correspondent,  
St.Anne's Higher Secondary School,  
Rajakrishnapuram-627 114.  
Tirunelveli District.

... Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep 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,  
Tirunelveli, Tirunelveli District.

4.The District Educational Officer,  
Cheranmadevi- 627 001,  
Tirunelveli 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 issued by the fourth respondent District Educational Officer in O.Mu.No.97/A3/2016 dated 26.01.2016, quash the same and further direct the fourth respondent District Educational Officer to approve forthwith the appointment of Sr.E.Jessi Vimala Rani as BT Assistant in English in the petitioner's school w.e.f., the date of her appointment on 05.06.2012 and the period of service rendered by her in the leave vacancy between 03.09.2011 and 31.05.2012 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Ragatheesh Kumar for  
M/s.Isaac Chambers

For Respondents : Mr.V.Om.Prakash  
Government Advocate

### **ORDER**

This writ petition is filed for writ of Certiorarified Mandamus to quash the impugned proceedings dated 26.01.2016, and consequently direct the fourth respondent to approve the appointment of Sr.E.Jessi Vimala Rani as BT Assistant in English with effect from 05.06.2012 and the period of service rendered by her in the leave vacancy between 03.09.2011 and 31.05.2012 with all attendant benefits including the arrears of salary and allowance.



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2. The petitioner's school is a Private Aided Minority School, wherein the BT Assistant fell vacant on 05.06.2012 due to the transfer of the then incumbent Sr.A.Sobia to another school under the same management on 04.06.2012. In the said vacancy, the school appointed the candidate Sr.Jessi Vimala Rani as BT Assistant (English) with effect from 05.06.2012. Earlier, she served as BT Assistant (English) in the leave vacancy for the period between 03.09.2011 and 31.05.2012. In the meantime, the petitioner's school submitted a proposal to the fourth respondent DEO on 06.07.2012 for approval of her service with effect from 05.06.2012. In spite of several reminders, the respondent did not approve the proposal.

3. The contention of the school is that since the school is a minority institution qualification of TET is not necessary. Moreover, the Government has not conducted any TET examination after 2013. It is only vide G.O.Ms.No.181 School Education Department dated 15.11.2011, the Teacher Recruitment Board is designated as the Nodal Agency for conducting Teacher Eligibility Test and for recruitment of teachers. The learned Government Advocate, appearing for the respondents submit that through proceedings dated 21.07.2015 the Government granted exemption



of five years for qualification of TET. Therefore, the said teacher was appointed without TET qualification. When the writ petition is pending, the respondents have issued approval order dated 20.02.2017.

4. The first issue is whether the teacher appointed in the minority institution without qualification of TET can continue the said posts, wherein it has been held in several cases that they can continue in the said post and they are fully entitled to the salary.

5. The second issue is whether the minority schools are exempted from TET qualification for teachers. As far as this issue is concerned, the issue is pending before the Supreme Court in Annie Packiarani Bai batch cases. The petitioner school's right may be determined after the disposal of the said case, which is pending before the Hon'ble Supreme Court.

6. However, this Court is of the considered opinion that the Hon'ble Supreme Court in TMA Pai's case, the Hon'ble Eleven Member Bench has held that the qualification prescribed for appointment by the Government is applicable even for minority institution. Unfortunately, when the issue of 25% reservation of compulsory admission of students belonging to weaker



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sections and disadvantaged groups in the neighbourhood school was considered by the Hon'ble Seven Member Bench, it has been held that the TET is not applicable to the Minority Institutions, hence the Minority Institution has taken a stand that qualification of TET is not applicable to minority institutions. But when the Hon'ble Supreme Court in Eleven Member Bench had held that the qualification of TET is applicable for minority institution also. This Court is of the considered opinion that TET is applicable to minority institution also. Therefore, the order dated 20.02.2017 wherein it has disbursed only salary alone is legally correct.

7. Accordingly, this writ petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**20.04.2023**

NCC : Yes / No

Index : Yes / No

Internet : Yes

*sbn*



To

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Fort St. George, Chennai 600 009.
2. The Director of School Education,  
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4. The District Educational Officer,  
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Tirunelveli District.



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**S.SRIMATHY, J**

*sbn*

Order made in  
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