



W.P.(MD)No.29475 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.12.2023

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THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

W.P.(MD)No.29475 of 2023

and

W.M.P.(MD)Nos.25443, 25444 and 25445 of 2023

B.Sangeetha

... Petitioner

vs.

1.The Chief Educational Officer,
Office of the Chief Educational Officer,
Madurai, Madurai District.

2.The District Educational Officer,
Office of the District Educational Officer,
Thirumangalam, Madurai District.

3.Jothi Dharman Assisi Higher Secondary School,
Rep by its Correspondent,
Sathangudi, Madurai 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 order passed by the 1st respondent in his proceedings in Na.Ka.No.9528/A5/2023 dated 29.11.2023 and quash the same as illegal and consequentially to direct the respondents to approve the appointment of the petitioner as B.T.Assistant (Maths) w.e.f.,



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14.06.2021 without insisting TET in terms of order made in W.A(MD).No.354 of 2020 dated 22.06.2023 and pay arrears of salary with all consequential benefits arising thereon within the period that may be stipulated by this Court.

For Petitioner :Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R1 and R2 :Mr.N.GA.Natraj
Government Advocate

ORDER

The present Writ Petition has been filed by a B.T.Assistant Teacher challenging the order passed by the first respondent, wherein, the request for approval of her appointment has been rejected.

2.The petitioner herein was appointed as B.T.Assistant Maths on 14.06.2021 in an aided minority institution run by a corporate management having three schools. The proposal sent for approving the appointment of the petitioner has been rejected primarily on the ground that the petitioner has not passed TET Examination.

3.The Hon'ble Division Bench of our High Court in W.A.No.313



of 2022 and batch case, dated 02.06.2023, in para No.71.1 held as follows:

“71.1. A perusal of the orders impugned in the writ petitions leading to these writ appeals would indicate that the fact that the teachers, in respect of whom approval of appointment was sought for by the school, did not possess TET pass eligibility was not a ground for refusal for grant of appointment approval, nor was it an issue raised before the Learned Single Judge at the time of disposal of the writ petitions. Only in the writ appeals, the State Government has raised an additional ground that the teachers whose appointment approval was sought for, did not possess TET. Notwithstanding the same, it is hereby clarified that by virtue of the judgment of the Constitution Bench of the Hon’ble Supreme Court in Pramati Educational and Cultural Trust & Ors. v. Union of India, [(2014) 8 SCC 1], wherein it was held that the RTE Act, 2009 insofar as it applies to minority schools, aided or unaided, covered under Article 30(1) is ultravires the Constitution, meaning thereby that the 2009 Act will not apply to minority schools, the eligibility of TET pass as required for appointment of teachers in non-minority schools, will not apply to minority schools. In other words, the approval of appointment of teachers in minority schools, both aided and unaided, cannot be refused or rejected on the ground that they do not possess a pass in TET. Further this specific issue is also pending consideration before the Supreme Court and the law laid down by the Supreme Court in Pramati Educational and Cultural Trust, cited supra, holds the field as on today. For these reasons, the order of the Learned Judge in the writ petitions is affirmed and the above four writ appeals are dismissed.”

4. In view of the judgment of Hon’ble Division Bench, TET is not mandatory for being appointed as a Teacher in an aided minority institution. Therefore, the impugned order is set aside and the matter is



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remitted back to the file of the first respondent herein. The first respondent after verifying that there are no surplus B.T.Assistant Maths Teachers within the three schools run by the corporate management in the academic year 2021-22, shall proceed to approve the appointment of the Writ Petitioner with effect from 14.06.2021 with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

5.The Writ Petition is allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

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R.VIJAYAKUMAR, J.

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