



W.P(MD)No.30244 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.30244 of 2023

and

W.M.P(MD)Nos.26056 & 26057 of 2023

The Correspondent,
St.Mary's Higher Secondary School,
Dindigul-624 001,
Dindigul District.

... 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-600 009.

3.The Chief Educational Officer,
Dindigul-624 001,
Dindigul District.

4.The District Educational Officer,
Dindigul-624 001,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd



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respondent Chief Educational Officer in Na.Ka.No.3029/A2/2023, dated 13.10.2023, quash the same and further direct the 3rd and 4th respondents to approve forthwith the Promotion of A.Devaraj as B.T.Assistant (History) in the petitioner school w.e.f the date of his promotion viz., 01.10.2021 with all attendant benefits including arrears of salary.

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

For Respondents : Mr.N.GA.Natraj
Government Advocate

ORDER

The present writ petition has been filed by an aided minority institution challenging the order passed by the Chief Educational Officer wherein the approval to the appointment of a B.T Assistant (History) has been rejected.

2. According to the school management, one A.Devaraj was appointed as B.T Assistant (History) in the petitioner school on 01.10.2021. The management has sent a proposal for approval to the authorities. The 3rd respondent herein under the impugned order, dated 13.10.2023 has rejected the approval on the ground that the concerned teacher has not passed the TET examination.



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3. The learned counsel appearing for the writ petitioner brought to the notice of the Court the Hon'ble Division Bench judgment in **W.A(MD)No.313 of 2022 and batch (The Director of School Education & Others Vs. M.Velayutham & Another)**, dated 02.06.2023 paragraph No.71.1, which is extracted 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



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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 above said legal position, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 3rd respondent. The 3rd respondent is directed to approve the appointment of the writ petitioner with effect from 01.10.2021, if he is otherwise qualified. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.

5. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.30244 of 2023

Dated:
20.12.2023