



W.P(MD)No.30389 of 2023

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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.30389 of 2023

and

W.M.P(MD)Nos.26169 & 26171 of 2023

Jothi Higher Secondary School,
Narimedu,
Madurai,
Represented by its Correspondent,
R.Arun.

... Petitioner

Vs.

1.The Director of School Education,
O/o. The Directorate of School Education,
DPI Compound, College Road,
Chennai-6.

2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Madurai,
Madurai District.

3.The District Educational Officer,
O/o. The District Educational Officer,
Melur,
Madurai District.

... Respondents



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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 issued by the 2nd respondent in his proceedings in ந.க.எண்.275/ஆ1/2020, dated 29.11.2023 and quash the same as illegal and consequentially to direct the 3rd respondent to approve the appointment of S.Vallinayaki as B.T.Assistant (Science) w.e.f. 02.03.2020 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 Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by an aided minority stand alone school challenging the order passed by the 2nd respondent herein, wherein the authority has rejected the request of the school management for approving the appointment of a B.T Assistant (Science) teacher on the ground that she has not passed TET examination.



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2. A perusal of the impugned order indicates that the authorities have rejected the request for approval on the sole ground that the concerned teacher 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*



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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 the Hon’ble Division Bench, TET is not mandatory for being appointed as a Teacher in an aided minority institution. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 2nd respondent herein. The 2nd respondent is directed to approve the appointment of the concerned Teacher, if the appointment is within the sanctioned strength for the academic year 2019-20 with effect from 02.03.2020 with all attendant benefits. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.



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

20.12.2023

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

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R.VIJAYAKUMAR,J.

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Order made in
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Dated:
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