



WEB COPY



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.Nos.1963 of 2012 & W.A.Nos. 2015 and 2016 of 2013
and W.P.No.33206 of 2013 & M.P.No.1 of 2012

W.A.Nos.1963 of 2012

- 1.P.Paul Sam Asir
- 2.R.Pulleswaran
- 3.T.Suresh Babu

... Appellants

-Vs-

- 1.E.Jasmin Shanthi
- 2.S.Stella Roseline Glory
- 3.A.R.Punitha
- 4.K.Bama
- 5.The Additional Chief Secretary to Government
School Education (C2) Department
Secretariat, Chennai - 600 009.
- 6.The Chairman
Teachers Recruitment Board, 4th Floor
EVK Sampath Salai, DPI Compound
College Road, Chennai.
- 7.T.Devendran
- 8.S.Sofia
- 9.S.Sivasakthi
- 10.E.Esakkiammal
- 11.A.Ravikumar
- 12.G.Haymajin
- 13.N.Shanmugavalli
- 14.Jerome Kumar



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

- 15.J.Jerold
- 16.Ramalin Prasad
- 17.A.Roach Alexander
- 18.M.Jeya Lourdhu Dass
- 19.A.George
- 20.T.Gilbert Raj
- 21.S.Amala Jeevan
- 22.I.Arockiaraj
- 23.J.Marivalan
- 24.T.Balamurugan
- 25.R.Ganesan
- 26.S.John Gnanaseelan
- 27.A.John Marshal
- 28.J.Thomas Arockia Raj
- 29.M.A.Floria Packia Seeli
- 30.S.Premila Sagaya Rani
- 31.M.Motcha Mary
- 32.M.Suganthi Stella
- 33.A.Santhi
- 34.G.Ignnatus Inbaraja
- 35.A.Louis Raj
- 36.G.Packia Seeli
- 37.D.Christhu Doss Joshua
- 38.V.Augustine
- 39.K.Amalraj Kennedy
- 40.V.Sagaya Raj
- 41.A.S.Jerald
- 42.S.Vijayakumar
- 43.G.Veerabadhiran
- 44.S.Gunasekaran
- 45.S.Sheela
- 46.B.Vasanthi
- 47.S.Lakshmi
- 48.S.Sambandam
- 49.K.Thamotharan
- 50.R.Thanigairaj
- 51.D.Saleth Mary
- 52.P.Sivakumar
- 53.A.Jayanthi
- 54.A.Chitra
- 55.A.Suganthi
- 56.P.Sasi Rega
- 57.M.Latha



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

58.S.Rani Sarathi Devi
59.K.Sankaralingam
60.P.Jeeva
61.B.Balakumari
62.M.Shankar Ganesh
63.M.Madasamy
64.V.Selvaraj
65.D.Jeyaseelan
66.S.Jothi
67.D.Annapuranni
68.P.Kumar
69.G.T.Ajitha Kumari
70.D.Suresh Babu

(RR 13 to 70 impleaded as Party Respondents
vide order of court dated 14.08.2013 made
in M.P.No.1/2013)

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order dated
10.07.2012 in W.P.No.28343 of 2012.

For Appellants	:	Mr.S.N.Ravichandran
For Respondents	:	Mr.K.V.Sajeev Kumar Special Government Pleader - for R5 Mr.K.Sathish Kumar - for R4 Ms.S.Nathiya - for R13 to 70

W.A.No.2015 of 2013

1.G.Venkatasamy
2.A.Maria Joseph Jerald
3.J.Sathiaseelan
3.E.Shanthi

... Appellants

-Vs-

1.E.Jasmin Shanthi
2.S.Stella Roseline Glory
3.A.R.Punitha
4.K.Bama



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

5.The Additional Chief Secretary to Government
School Education (C2) Department
Secretariat, Chennai - 600 009.

6.The Chairman
Teachers Recruitment Board, 4th Floor
EVK Sampath Salai, DPI Compound
College Road, Chennai.

7.R.Rajmohan

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order dated 10.07.2012 in W.P.No.28342 of 2012.

For Appellants : Mr.V.Sivalingam for M/s.C.S.Associates

For Respondents : Mr.M.Murali
Government Advocate - for R5 and 6
No appearance - for R1 to 3 and 7
Mr.K.Sathishkumar - for R4

W.A.No.2015 of 2013

1.G.Venkatasamy
2.A.Maria Joseph Jerald
3.J.Sathiaseelan
3.E.Shanthi

... Appellants

-Vs-

1.E.Jasmin Shanthi
2.S.Stella Roseline Glory
3.A.R.Punitha
4.K.Bama

5.The Additional Chief Secretary to Government
School Education (C2) Department
Secretariat, Chennai - 600 009.

6.The Chairman
Teachers Recruitment Board, 4th Floor
EVK Sampath Salai, DPI Compound
College Road, Chennai.



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

7.T.Devendran
8.S.Sofia
9.S.Sivasakthi
10.E.Esakkiammal
11.A.Ravikumar
12.P.Paul Sam Asir
13.R.Pulleswaran
14.G.Haymajin
15.T.Suresh Babu

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order dated 10.07.2012 in W.P.No.28343 of 2012.

For Appellants : Mr.V.Sivalingam for M/s.C.S.Associates
For Respondents : Mr.M.Murali
Government Advocate - for R5 and 6
No appearance - for R1 to 3, R 7 to R15
Mr.K.Satish Kumar - for R4

W.P.No.33206 of 2013

1.K.Selvam
2.C.Paramasivan
3.M.Muthumariappan
4.D.Devadoss Gnanaraj
5.V.Pugal Raja

... Petitioners

-Vs-

- 1.The State of Tamil Nadu represented by its
Secretary to Government, School Education Department
Secretariat, Chennai - 600 009.
- 2.The Director of Elementary Education
DPI Compound, College Road, Chennai 600 006.
- 3.The Director of School Education, DPI Complex
College Road, Chennai - 600 006.



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

4.The Teachers Recruitment Board,
represented by its Chairman, DPI Compound
College Road, Chennai.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents herein to select and appoint the petitioners to the post of Secondary Grade Teachers pursuant to the certificate verification conducted on 02.06.2009 without insisting upon the Teachers Eligibility Test as a qualification for appointment.

For Appellants : Mrs.Dakshayini Reddy
For Respondents : Mr.Vadivel Deenadayalan
Government Advocate for R1 to R4

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since the issue raised in all these writ appeals arise out of the common order passed by the learned Single Judge dated 10.07.2012 made in W.P.Nos.28342 and 28343 of 2011, and also the writ petition has been filed seeking for a mandamus to consider the candidature of the petitioners therein without insisting the TET qualification for appointment to the post of Secondary Grade Assistant, all these cases were heard together and are disposed of by this common judgment.

2. In respect of the recruitment of Secondary Grade Teacher, earlier the procedure that was adopted by the State Government is by recruitment through employment seniority, originally, it was district-wise and subsequently state-wise.



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

WEB COPY

3. After the Right of Children to Free and Compulsory Education Act, 2009 came into effect, as per Section 23 of the said Act, Academic Authority was appointed, who was none other than the National Council for Teacher Education (NCTE). The academic authority has prescribed certain mandatory guidelines under which alone the teachers shall be appointed hereafter for the post of Secondary Grade Assistants or P.G.Assistant or B.T.Assistant. Insofar as the present recruitment which is in question is concerned, the Teachers Recruitment Board (TRB) had issued a notification for recruitment to the post of Secondary Grade Assistant or Secondary Grade Teacher.

4. Before the issuance of this notification, the Government had already issued a Government Order ie., G.O.Ms.No.181, under which how this recruitment should be made has been provided. Based on the said G.O., the present notification was issued by the TRB. However, certain portions of the said notification was put under challenge in those writ petitions before the writ Court on the apprehension that, despite the Act as well as the prescription made by the academic authority ie., NCTE, where it has become mandatory that those who have qualified in TET alone would be entitled to be considered for appointment to be post of teachers, without insisting upon such a qualification if the teachers are appointed, that would go against or run contra to the provisions as well as the mandatory guidelines issued by the academic authority ie., NCTE.



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

WEB COPY

5. However, the said apprehension based on which only those writ petitions have been filed by some of the job seekers, has been cleared by the stand taken by the State Government as well as the TRB, where, on behalf of the State Government, the learned Government Pleader appeared before the writ Court, made a categorical statement and also filed a counter affidavit on behalf of the TRB stating that, insofar as the recruitment which was proposed pursuant to the notification in question issued by the TRB is concerned, already date has been fixed as 12.07.2012 to conduct the Teachers Eligibility Test (TET) and therefore, those who become successful in the TET to be conducted on 12.07.2012 or subsequently only will be considered for appointment to the post of Secondary Grade Teachers.

6. When this stand has been taken by the State Government as well as the Teachers Recruitment Board, having taken note of the said factors, the learned Judge has disposed of the said writ petitions with the following order.

" 20. The introduction of the prescription that a candidate should have passed Teacher Eligibility Test, by the NCTE, is not without any justification. Out of experience gained in dealing with mushroom growth of Teacher Training Institutes and the way the Courts came to pass orders, under the guise of helping the students, the NCTE found itself in an unenviable position of streamlining the entire system. Therefore, the only common denominator, on which they can test the eligibility of persons who



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

gained Diplomas from such Institutes, was to conduct such an eligibility test. Therefore, the contention of the learned counsel for the contesting respondents has to be tested in this particular background. If so tested, it will be clear that no one can claim a right to be appointed without passing the Teacher Eligibility Test, on the ground that the process of recruitment began much earlier and was blocked by litigations.

21. It is now well settled that any interpretation given to such Regulations should advance the cause of which such amendment came. As a matter of fact, the requirement of a pass in the Teacher Eligibility Test was introduced on 23.08.2010 itself. I do not know why an exemption was sought to be given by the amended Regulations from 29.07.2011. The prescription should have been implemented from 23.8.2011 itself. Any way, I am concerned about the same in these writ petitions.

22. There is also a statutory obligation on the part of the respondents, as pointed out by Mr.A.Fathimanathan, learned counsel for the petitioners. Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 mandates that only persons possessing minimum qualifications by the Regulations of 23.08.2010. If the State Government desired to have exemption, they must have applied under Sub-section(2) of Section 23 read with Rule 18 of the Rules framed in 2010. Not only that the State Government did not seek any exemption, but the State Government has taken today a positive stand that only those who have passed Teacher Eligibility Test will be appointed ultimately in the present process of recruitment. Therefore, in a writ petition



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

where the petitioners seek enforcement of the Regulations of the NCTE and in a writ petition where the official respondents take a stand to the same effect, I cannot hold otherwise, at the instance of the contesting respondents.

23. Therefore, both these writ petitions are disposed of on the basis of the statement made by the learned Special Government Pleader and the stand taken in the counter affidavit of the Teachers Recruitment Board that only those who appear and pass the Teacher Eligibility Test to be conducted on 12.07.2012 will be eventually selected for appointment to the post of Secondary Grade Teachers. There shall be no order as to costs. Consequently, M.P.No.2 of 2011 in W.P.No.28342 of 2011 and M.P.Nos.3 and 4 of 2011 are closed."

7. By virtue of the said orders, the impleaded respondents in the writ petition ie., respondents R3 to R11 who have not qualified with TET qualification suffered with the said decision. Therefore, in order to redress their grievances, some of them filed writ appeals before this Court and one such writ appeal filed in W.A.No.1736 of 2012 by one R.Rajmohan, who stood as the third respondent in the said writ petition in W.P.Nos.28342 and 28343 of 2011. The said writ appeal was considered by the first Division Bench of this Court and by order dated 22.08.2012, the said writ appeal was dismissed by confirming the order passed by the writ Court. The relevant portion of the order of the Division Bench dated 22.08.2012 reads thus,



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

WEB COPY

" 13. In our considered opinion, therefore, the principles laid down in the above judgment squarely answer the questions raised in the present case. The learned single Judge was perfectly right in accepting the statement made by the learned Special Government Pleader and the stand taken in the counter affidavit filed on behalf of the Teachers Recruitment Board that only those appear and pass the Teacher Eligibility Test will be eventually selected for appointment to the post of Secondary Grade Teachers.

14. We do not find any ground to interfere with the well considered and well merited order passed by the learned single Judge. The writ appeal is, therefore, dismissed. However, there shall be no order to costs. Consequently, M.P. No.1 of 2012 is closed.

8. Mr.S.N.Ravichandran, learned counsel for the appellants in W.A.No.1963 of 2012 would contend that, as against the said order the said Rajmohan had filed Special Leave Petition before the Hon'ble Supreme Court in S.L.P.(C) No.31042 of 2012, where an interim order of keeping one post vacant for the petitioner was ordered and the said S.L.P., is still pending consideration before the Hon'ble Supreme Court.

9. However, the point to be considered is that, whether the teachers who have been trained for holding the post of teachers at various levels like Secondary



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

Grade Assistant/Secondary Grade Teacher, B.T.Assistant and P.G.Assistant can be selected and appointed in the schools run by the Government without TET qualification despite the provisions of the mandatory guidelines issued by the academic authority, which was in fact decided by more than one decision.

10. It has been settled consistently that those who qualified in TET qualification alone would be eligible to be considered for appointment to the post of teachers including Secondary Grade Teacher. Therefore, as per such a settled proposition, the respondents in the writ petition, who are appellants in the writ appeals cannot seek for any relief from this Court to select them to the post of teachers ie., Secondary Grade Teacher, admittedly without having the qualification of TET.

11. Therefore, based on the settled legal proposition since the writ petition was dismissed and has been confirmed by the Division Bench as stated supra and the very impugned order itself has already been upheld by the Division Bench of this Court and the said decision so far has not been varied, we do not want to deviate from the earlier order passed by this Court. As it has been passed by a Coordinate Bench, we are bound to follow the same. Therefore, we do agree with the view taken by the learned Judge as has been confirmed by the Division Bench order dated 22.08.2012 in W.A.No.1736 of 2012 in the matter of **"R.Rajmohan -vs- The Additional Chief Secretary to Government, School Education (C2)**



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

Department and Others" and accordingly these appeals fail and the same are accordingly dismissed. No costs.

12. Insofar as the writ petition in W.P.No.33206 of 2013 is concerned, which has been filed with a prayer for a Mandamus to consider the candidature of the petitioner for appointment to the post of Secondary Grade Teacher without insisting TET qualification, the same also has to face the same fate as that of the appeals. Therefore, that writ petition is also liable to be dismissed and it is accordingly dismissed. No costs.

13. In result, all the writ appeals as well as the writ petition stand dismissed, for the reasons stated herein above.

(R.S.K.,J.) (K.B.,J.)
12.01.2024

Index : Yes
Internet : Yes
Neutral Citation : Yes
KST



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

To

WEB COPY

- 1.The Additional Chief Secretary to Government
School Education (C2) Department
Secretariat, Chennai - 600 009.
- 2.The Chairman
Teachers Recruitment Board, 4th Floor
EVK Sampath Salai, DPI Compound
College Road, Chennai.
- 3.The Secretary to Government, School Education Department
Secretariat, Chennai - 600 009.
- 4.The Director of Elementary Education
DPI Compound, College Road, Chennai 600 006.
- 5.The Director of School Education, DPI Complex
College Road, Chennai - 600 006.



WEB COPY



W.A.Nos.1963 of 2012 and 2015 & 2016 of 2013
and W.P.No.33206 of 2013

R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

KST

W.A.Nos.1963 of 2012
& W.A.Nos. 2015 & 2016 of 2013
and W.P.No.33206 of 2013

12.01.2024