



W.P.No.32507 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR
W.P.No.32507 of 2013

D.Manimala

...Petitioner

Vs.

1.The State of Tamilnadu,

By its Secretary for School Education,

Fort St. George,

Chennai.

2.The Director of School Education,

DPI Compound,

Chennai-6.

3.The District Education Officer,

Namakkal District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, praying to call for the records of the 3rd respondent 21.11.2013 in Na.Ka.No.7720/A7/2013 and quash the same.



W.P.No.32507 of 2013

For Petitioner : Mr.J.Srinivasa Mohan
For Respondents : Mr.R.H.Ravikumar
Government Advocate

ORDER

The writ petition has been filed seeking to call for the records of the 3rd respondent 21.11.2013 in Na.Ka.No.7720/A7/2013 and quash the same.

2.The petitioner herein was appointed as B.T.Assistant in Gokulnath National Girls Higher Secondary School on 24.03.2012 and the same was approved by the 3rd respondent, vide proceedings in R.No.2521/A7/2012 dated 18.07.2012. However, it is thereafter, the 3rd respondent, having realized that the petitioner does not possess the qualification of pass in Teacher Eligibility Test, as mandated in G.O.Ms.No.181, School Education Department, dated 15.11.2011, issued the impugned show cause notice, dated 21.11.2013 proposing to cancel the appointment of the petitioner. It is aggrieved by the said proceedings, the petitioner has approached this Court.



W.P.No.32507 of 2013

WEB COPY

3. This Court, while entertaining the writ petition, passed an interim order granting interim injunction restraining the respondents from relieving the petitioner and by virtue of the same, the petitioner is continuing in service.

4. Heard learned counsel for the petitioner and learned Government Advocate for the respondents and perused the entire materials on record.

5. After hearing the learned counsel on either side, it emerges that there is no dispute that the petitioner is required to possess TET qualification for being appointed to the post of BT.Assistant after 15.11.2011. Admittedly, the petitioner was appointed subsequent to 15.11.2011, i.e., the date on which G.O.Ms.No.181 dated 15.11.2011 was issued by the Government. For want of possessing the requisite qualification and not passing TET, the petitioner's appointment is sought to be cancelled. However, considering the fact that the learned counsel for the petitioner placed reliance on the decision of Division Bench of this Court in W.A.No.1126 of 2015 and batch, dated 24.01.2017, wherein the Division Bench, after taking note of G.O.Ms.No.181, dated 15.11.2011, observed in para No.42 which reads as under:



WEB COPY



W.P.No.32507 of 2013

42. Accordingly, to meet the ends of justice, the writ appeals and the writ petitions are disposed with the following directions:

(i) The Teachers herein, who have been appointed subsequent to the issuance of the Government Order, are granted one opportunity to appear for the Teacher Eligibility Test to be conducted by the Teachers Recruitment Board and in the event of their passing in the Teacher Eligibility Test, their appointments shall be approved else, they have no other option but to quit the service/ousted from service;

(ii) Till the results are published, the Government shall pay the salary to the Teachers, who are in service of the aided institutions, for the services rendered by them and in the cases where salary was not paid the same shall be paid along with arrears, if any, forthwith;

(iii) Learned Advocate General submitted that salary has been paid to most of the Teachers and only a few were not paid, for want of particulars. In such a



W.P.No.32507 of 2013

WEB COPY

case, the Teachers whose salary have not been paid for want of particulars, they shall furnish the requisite particulars immediately, so to enable the Government pay the salary immediately;

(iv) Insofar as W.P.No.7593 of 2015 is concerned, though the writ petitioner has qualified with a pass in Teacher Eligibility Test during 2013, she has not been paid the difference of salary from the date of appointment, till the date of passing of the Teacher Eligibility Test. In view of the discussions aforesaid, the Government is directed to pay the difference of salary within a period of four weeks from the date of receipt of a copy of this order; and

(v) The Teachers Recruitment Board is directed to take note of the above observations and to issue notification for conducting Teacher Eligibility Test on or before the end of February 2017, indicating the date of exam to be either in the last week of March 2017 or in the first week of April 2017.



W.P.No.32507 of 2013

WEB COPY

6.In the light of the above and in terms of Clause 1 of paragraph 42 quoted above, the petitioner is entitled for one opportunity to appear for TET and in the event the petitioner passes such Teachers Eligibility Test, the petitioner is entitled to continue in service as B.T.Assistant in the above said school. The learned counsel for the petitioner further submitted that she is not in a position to obtain any instructions from the petitioner as to whether she has appeared for any such Teachers Eligibility Test often appointment or not, and whether she acquired such qualification or not.

7.In the light of the above and also considering the fact that the petitioner continued to the service by virtue of interim order passed by this Court, this Court is also considering the fact that the present writ petition has been filed against notice issued by the 3rd respondent, this Court is also of the considered view that it would be appropriate in the interest of justice to dispose of the writ petition, permitting the petitioner to submit her explanation in response to the impugned notice dated 21.11.2013, within a period of six weeks from the date of receipt of a copy of this order and on submission of such



W.P.No.32507 of 2013

explanation, the 3rd respondent shall consider the same, by duly taking into consideration the order dated 24.01.2017 passed by the Division Bench in W.A.No.1126 of 2015 etc., batch and pass appropriate orders thereon, in accordance with law, as expeditiously as possible, at any rate within a period of eight weeks from the date of submission of the explanation by the petitioner. The interim order passed by this Court, vide dated 21.11.2013 in this writ petition, shall continue till passing of the orders as directed above by the 3rd respondent in terms of this Court, provided the petitioner submits her explanation within the time stipulated herein above.

8. Accordingly, the writ petition stands disposed of. No costs.

06.08.2024

vsn

Internet: Yes/No

Index: Yes/No

Speaking order : Yes/No

Neutral case citation: Yes/No



W.P.No.32507 of 2013

To

- 1..The Secretary for School Education,
Fort St. George,
Chennai.
- 2.The Director of School Education,
DPI Compound,
Chennai-6.
- 3.The District Education Officer,
Namakkal District

MUMMINENI SUDHEER KUMAR, J.



WEB COPY



W.P.No.32507 of 2013

vsn

W.P.No.32507 of 2013

06.08.2024