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Cont P. Nos. 1389 & 1398



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 10.07.2024

CORAM

**THE HONOURABLE MR. R. MAHADEVAN, ACTING CHIEF JUSTICE**  
and  
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Contempt Petition Nos. 1389 and 1398 of 2023

and

Sub Application Nos. 443 to 446 of 2023

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Contempt Petition No. 1389 of 2023

R. Sakthivel

.. Petitioner

Versus

1. Tmt. Karkala Usha, I.A.S.,  
Principal Secretary to Government  
The State of Tamil Nadu  
School Education Department  
Fort St. George, Chennai - 600 009
2. Mr. Nandhakumar, I.A.S.,  
The Commissioner of School Education  
Directorate of School Education  
DPI Campus, College Road  
Chennai - 600 006
3. Thiru. Kannappan  
The Joint Director of School Education (Personnel)  
DPI Campus, College Road  
Chennai - 600 006



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4. G. Arivoli  
The Director of School Education  
Directorate of School Education  
DPI Campus, College Road  
Chennai - 600 006

.. Respondents

Contempt Petition No. 1398 of 2023

TET Passed Candidates Welfare Association  
rep. by its Secretary  
Mrs. K. Shanmuga Priya  
having office at No.389/2, Rose Valley  
Opposite Bismillah Nagar  
Hosur - 635 109

.. Petitioner

Versus

1. Tmt. Karkala Usha, I.A.S.,  
Principal Secretary to Government  
The State of Tamil Nadu  
School Education Department  
Fort St. George, Chennai - 600 009
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The Commissioner of School Education  
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DPI Campus, College Road  
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3. Thiru. Kannappan  
The Joint Director of School Education (Personnel)  
DPI Campus, College Road  
Chennai - 600 006
4. G. Arivoli  
The Director of School Education  
Directorate of School Education  
DPI Campus, College Road  
Chennai - 600 006

.. Respondents



Contempt Petition No. 1389 of 2023:- Petition filed under Section 11 of The Contempt of Courts Act to punish the respondents for committing grave contempt and gross disobedience of the order passed by this Court in WP No. 3368 of 2023 dated 02.06.2023.

Contempt Petition No. 1398 of 2023:- Petition filed under Section 11 of The Contempt of Courts Act to punish the respondents for committing grave contempt and gross disobedience of the order passed by this Court in WP No. 3364 of 2023 dated 02.06.2023.

For Petitioners : Mrs. N. Kavitha Rameshwar

For Respondents : Mrs. Mythreye Chandru, Special Government Pleader  
in all Contempt Petitions

### **COMMON ORDER**

[Order of the Court was made by the Acting Chief Justice]

Both these contempt petitions have been filed for the alleged disobedience of the direction issued in Paragraph 75 of the order of this Court in Writ Petition Nos. 3364 and 3368 of 2023, W.A. No.313/2022 etc. batch of cases. The following paragraphs are extracted for easy reference:

*“74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:*

*(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant prior to 29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc., irrespective of their dates of original appointment, they must necessarily*



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*possess TET, failing which they will not be eligible for promotion.*

*(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.*

*(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET.*

*(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes “a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down, thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.*

*(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory.*

*75. The narration of facts which propelled this case would indicate that the teachers have not been appointed for the last ten years inspite of being qualified with a pass in TET. **On the basis of the above findings and observations made, the State Government is directed to conduct TET periodically and make direct recruitment of teachers and promotion from among TET qualified candidates at the earliest.”***

*(Emphasis supplied)”*

2. According to the contempt petitioners, this Court directed the State Government, the 1<sup>st</sup> respondent herein to make direct recruitment and promotion from among TET qualified candidates at the earliest as the writ petition challenging



the Special Rules itself was necessitated because of the State Government not making any direct recruitment for the past ten years in Government Schools. This is especially so when the TET qualified candidates have been unemployed for years together and even after ten years of the TET eligibility being introduced and the Division Bench issuing specific directions in this regard, the respondents have once again issued proceedings for making temporary appointments in the posts of Secondary Grade Teachers and Graduate Assistants, ignoring the claims of the petitioners. The petitioners further state that instead of making appointments by direct recruitment, the fourth respondent herein has now issued proceedings dated 09.06.2023 directing all the Chief Educational Officers to fill up the vacancies of Secondary Grade Teachers and BT Assistant on temporary basis through the School Management Committee, which is directly contrary to the order of this Court, which amounts to wilful disobedience of the order of this Court.

3. Heard both sides.

4. The contempt petitions were filed complaining of the temporary appointments being made by the State Government inspite of the clear direction by the Division Bench to make permanent appointments through direct recruitment for teachers in the order dated 02.06.2023 in W.A. No. 313/2022 etc. batch. A



recruitment notification dated 25.10.2023 came to be issued after the filing of these contempt petitions. After the filing of the contempt petitions, this Court was informed that SLPs have been preferred against the order dated 02.06.2023 in W.A. No. 313/2022 etc. batch, and the same are pending consideration before the Hon'ble Supreme Court. Further, the State Government has also undertaken that they will not resort to any temporary appointments and that they have started the process of direct recruitment which is evident by the publication of a recruitment notification dated 25.10.2023. As such, there is no further adjudication required in these contempt petitions.

5. In view of the above developments and the specific stand of the State Government that they will not resort to any further temporary appointments of teachers, these contempt petitions are closed. Consequently, connected sub applications are also closed.

[R.M.D., ACJ.]

[M.S.Q., J.]

10.07.2024

Index : Yes / No

Internet : Yes / No

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**The Hon'ble Acting Chief Justice**  
**and**  
**Mohammed Shaffiq, J.**

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**10.07.2024**