



W.P.No.4650 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.06.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

W.P.No.4650 of 2016

and

W.M.P.Nos.4028 to 4030 of 2016

and 6391 of 2018

R.Immaculate Pamila

... Petitioner

-VS-

- 1.The Government of Tamil Nadu,
represented by the Additional Chief Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Salem,
Salem District – 636 007.



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4.The District Educational Officer,
The Office of the District Educational Officer,
Salem,
Salem District – 636 007.

5.The Correspondent,
Little Flower Higher Secondary School,
Salem – 636 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned G.O.(Ms). No. 181, School Education (C2) Department, dated 15.11.2011, on the file of the 1st respondent and quash the same in respect of the petitioner, directing the respondents 1 to 4 to approve the proposals dated 11.09.2015 of the appointment of the petitioner R.Immaculate Pamila as B.T.Assistant, (Maths) in Little Flower Higher Secondary School, Salem, Salem District – 636 007, w.e.f 12.06.2014 with all service benefits.

For petitioner : Mr.S.M.Edward Stanley

For R1 to R4 : Mrs.P.Rajarajeswari,
Government Advocate

For R5 : No appearance



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ORDER

The above writ petition has been filed challenging G.O.(Ms). No. 181, School Education (C2) Department, dated 15.11.2011, and to direct the respondents 1 to 4 to approve the proposals dated 11.09.2015 for the appointment of the petitioner as B.T.Assistant, (Maths) in fifth respondent school. The challenge to the above Government Order was on account of the fact that as per the said Government Order the Secondary Grade and B.T.Assistant teachers could be recruited and appointed only after they pass a Teacher Eligibility Test (TET).

2. The fifth respondent school being a minority school was not bound by the Right to Free and Compulsory Education Act, 2009, as held by the Hon'ble Supreme Court in the judgment in the case of *Pramati Educational and Cultural Trust and Ors., vs. Union of India and Ors.*, reported in (2014) 8 SCC 1. Therefore,



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the above writ petition was filed by the petitioner.

3. The said issue has now been set at rest by the judgment of the First Bench of this Court in a batch of writ appeals viz., W.A.Nos.313, 883, 1891, 2050, 2082, 2617, 2795 of 2022 and 19, 31, 32, 36 of 2023 and W.P.Nos.3364 and 3368 of 2023, where the Division Bench of this Court has raised an issue as to whether passing of the Teacher Eligibility Test (TET) is mandatory for promotion to the post of B.T.Assistant / Graduate Teacher, from the cadre of Secondary Grade Teacher (already in service). Regarding this issue, the Division Bench has 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



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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 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



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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.”

Therefore, in light of the above, the said Government Order is held to be inapplicable to the fifth respondent school and consequently, this writ petition is allowed as prayed for. Connected W.M.Ps. stand closed. No costs.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

1.The Additional Chief Secretary,
The Government of Tamil Nadu,
Department of School Education,



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P.T.ASHA, J.,

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