



W.P.Nos.25740 and 25743 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM :

The Hon'ble MR.JUSTICE D.BHARATHA CHAKRAVARTHY, J.

**W.P.Nos.25740 and 25743 of 2023
and W.M.P.Nos.25164 and 25166 of 2023**

Mrs.A.Nazima

.. Petitioner in
W.P.No.25740 of 2023

Mrs.B.Shabana

.. Petitioner in
W.P.No.25743 of 2023

-VS-

1. The Director of Elementary Education,
DPI Compound, College Road,
Nungambakkam, Chennai-600 006.
2. The District Educational Officer,
Vellore.
3. The Block Educational Officer,
Vellore Nagar, Vellore.
4. The Manager & Correspondent
Bakhiyath Salihath Aided Primary
School, Vellore-632 004.

.. Respondents in
both WPs.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 2nd respondent in O.Mu.No.0872/A3/2021 dated 28.04.2021 and



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O.Mu.No.1467/A3/2021 dated 08.09.2021 and quash the same and consequently direct the respondents to approve the appointment of the petitioners as Secondary Grade Teachers in the 4th respondent School with effect from 15.12.2020 with all consequential monetary benefits.

For Petitioners	:	Mr.S.N.Ravichandran
For Respondents 1 to 3 in W.P No. 25740 of 2023	:	Mrs.S.Mythreye Chandu Special Government Pleader
For Respondents 1 to 3 in W.P.No. 25743 of 2023	:	Mr.P.Baladhandayutham Special Government Pleader

* * * * *

COMMON ORDER

By orders dated 28.04.2021 and 08.09.2021, the proposals sent to respondents 1 to 3 to approve the appointment of the petitioners as Secondary Grade Teachers are rejected by the first respondent. Since the self-same reasons are mentioned in respect of both the petitioners, who are appointed in the same school, both these writ petitions are taken up together and disposed of by way of this common order.

2. The case of the petitioners is that as against the duly sanctioned vacancies, the petitioners were appointed by a due selection process and the petitioners are fully qualified to be appointed



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as Secondary Grade Teachers. While so, the impugned orders reject the petitioners' case on the ground that there are surplus posts in the joint management/in the same management in respect of other schools and without redeploying the teachers, approval cannot be granted. It is the case of the petitioners that there is only one school under the management and therefore, the reason mentioned in the impugned orders is factually erroneous.

3. Mr.Ravichandran, the learned counsel appearing on behalf of the petitioners, reiterating the said submissions made in the affidavit filed in support of the writ petitions, would submit that when the petitioners are appointed as against the sanctioned vacancies, the approval has to be granted.

4. Per contra, the learned Special Government Pleader would submit that even though the reason mentioned in the impugned order may not be factually correct, the petitioners do not possess the TET qualification. In the absence of the essential qualification, the petitioners cannot be appointed. According to her, the matter is now pending before the Hon'ble Supreme Court of India in S.L.P.No.2691 of 2022.



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5. In reply thereof, Mr.Ravichandran, the learned counsel appearing on behalf of the petitioners, would rely upon the judgment of this Court in W.P.No.5680 of 2024 dated 04.03.2024, whereunder considering the earlier Division Bench judgments of this Court, this Court had directed grant of approval even without TET qualification. According to the learned counsel for the petitioners, when a Division Bench of this Court has taken a categorical view that the mandatory application of TET cannot be made in respect of the minority schools, then this Court has to go by the said view as on date.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. As far as the reason which is mentioned in the impugned order, admittedly the same is incorrect, as the school is stand-alone school and there is no question of any redeployment.

8. As far as the possession of TET qualification is concerned, the same is now at large before the Hon'ble Supreme Court of India. In the meanwhile, the judgment of the Division Bench of this Court taking



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a view that TET qualification cannot be insisted upon in respect of the minority schools has not since been stayed by the Supreme Court and orders are passed in respect of the identically situated teachers in W.P.No.5680 of 2023, etc. Therefore, it can be open for the respondents to re-visit the matter as and when the question of law is authoritatively decided and pronounced by the Supreme Court of India, this Court cannot keep the matters pending and since the petitioners are all in service, the respondents are directed to grant approval for their appointment.

9. In view thereof, the writ petitions are allowed on the following terms:

- a) The impugned orders bearing O.Mu.No.0872/A3/2021 dated 28.04.2021 and O.Mu.No.1467/A3/2021, dated 08.09.2021 shall stand quashed;
- b) The respondents are directed to grant approval to the petitioners for their appointment as Secondary Grade Teachers within a period of twelve weeks from the date of receipt of a copy of this order;
- c) It is however made clear that depending on the ultimate pronouncement of the Hon'ble Supreme Court of India, it would



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be open for the authorities to re-visit the grant of approval as per the decision of the Supreme Court.

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No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2024

Index : Yes
Website : Yes
Speaking Order

sra

To

1. The Director of Elementary Education,
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Nungambakkam, Chennai-600 006.
2. The District Educational Officer,
Vellore.
3. The Block Educational Officer,
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D.Bharatha Chakravarthy, J.

(sra)

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