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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

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THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26795 of 2021

Moses Aided Middle School,
50, Azad Street,
Tiruvarur – 610 001.
Rep. by its Secretary,
S.Muruganandam,
S/o.Subramanian

... Petitioner

Vs

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Tiruvarur District,
Tiruvarur.

3.The District Educational Officer,
Tiruvarur Education District,
Tiruvarur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 3rd respondent in O.Mu.No.87/Aa3/2020,



dated 11.10.2021 and to quash the same and consequently directing the respondents to pass orders for granting approval of appointment of Tmt.M.Premalatha, in the sanctioned post of Middle School Headmaster in the petitioner school from the date of appointment on 12.02.2020 with all consequential and other attendant benefits, including the arrears of salary from the date of appointment, based on the proposal submitted by the petitioner school in No.Nil dated 23.03.2020 within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran
Senior Counsel
for S.Nedunchezhiyan

For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

The petitioner herein is a non minority aided school. As the incumbent of the post of Headmaster of the petitioner's school was retired on superannuation on 31.05.2018, the petitioner herein sought prior permission of the 3rd respondent to fill up the said post through their communication dated 21.06.2018. Thereafter, on calling for certain further particulars the petitioner's school claimed have submitted such particulars by 02.11.2018. However, thereafter, no prior approval was accorded to the petitioner's school



to fill up the said vacant post of Headmaster. But the petitioner's school proceeded to fill up the said post and accordingly the petitioner's school claimed to have appointed one Tmt.M.Premalatha, who is stated to be fully qualified for the post of Headmaster and having more than five years of teaching experience as teacher.

2. It is thereafter, the petitioner's school sought approval of the appointment of the said Tmt.M.Premalatha as the Headmaster of the petitioner's school, but the said proposal of the petitioner was returned by the 3rd respondent stating various objections. One among the said objections is that the said Tmt.M.Premalatha who was appointed as Headmaster of the petitioner's school was not qualified to hold the post of Headmaster for want of possessing Teachers Eligible Test (TET) which is a mandatory. Besides the said objections, there are several other objections that were raised by the 3rd respondent while issuing the impugned order dated 11.10.2021 returning the proposals by the petitioner's school. Aggrieved by the said order, the petitioner approached this Court, by filing the present writ petition.



3. It is not in dispute that the said Tmt.M.Premalatha who was appointed as Headmaster of the petitioner's school for which approval is sought by the petitioner did not possess the qualification of TET.

4. The learned Senior counsel appearing for the petitioner submits that the said candidate appointed as Headmaster had already put in five years of teaching experience and there are no Government Orders or Rules that prescribed qualification of TET for the post of Headmaster of the petitioner's school.

5. Mr.K.H.Ravikumar, learned Government Advocate appearing for the respondents brought to the notice of this Court, the judgment of a Division Bench of this Court in W.A.No.313 of 2022 and batch etc., wherein it has been held that any appointment made to the post of secondary grade teacher after 29.07.2011 and necessarily adhere to the minimum eligibility criteria of passing TET. For the teachers who are already appointed prior to 27.09.2011 and entered into service without qualification of TET are not entitled for future promotional prospects like promotion to the post of BT Assistant or promotion to the post of Headmaster etc. The learned Division



Bench has held as noted above after having examined various Government Orders including G.O.Ms.No.181, School Education Department, dated 15.11.2011 and G.O.Ms.No.90, School Education (Q) Department, dated 28.03.2012.

6. It is also an admitted fact that in order to become eligible for appointment to the post of Headmaster, one should have teaching experience for a period of five years. Such teaching experience of five years should be with appropriate qualifications required for the post of teacher. Admittedly, candidate who was appointed as Headmaster by the petitioner's school does not possess the qualification. Therefore, even though the said candidate has put in teaching experience of five years without qualification of TET, she can not be said to be eligible for being appointed to the post of Headmaster, in the light of the decision of the learned Division Bench referred to above.

7. Accordingly, this Court does not find any illegality or irregularity in the impugned order passed by the 3rd respondent returning the proposals submitted by the petitioner. Accordingly, this writ petition is dismissed. However, it is open to the petitioner's school to take appropriate



steps for filling up the post of Headmaster in the petitioner's school with qualified candidates in accordance with law. Miscellaneous Petition if any pending shall stand closed. There shall be no order as to costs.

27.06.2024

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No
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To

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MUMMINENI SUDHEER KUMAR. J.,

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