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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.26907 of 2024
and WMP No.29435 of 2024

Modi Mohammed Shafeeq

... Petitioner

Vs.

1. The Director of School Education,
DPI Compound, College Road,
Nungambakkam, Chennai 600 006

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

3. The District Educational Officer (Secondary)
Thirupattur, Tirupattur District.

4. The Secretary & Correspondent,
Mazharul Uloom Higher Secondary School,
Ambur – 635 802, Thirupattur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for



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issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 2nd respondent in Na. Ka. No. 002381 / Aa2 / 2024, dated 19.08.2024 and quash the same and consequently direct, the respondents to approve the appointment of the petitioner as B.T.Assistant (Science) in the 4th respondent School, w.e.f. 01.12.2021 with all consequential monetary benefits, within a time frame fixed by this Court.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.P.Rajareshwari
Government Advocate
for R1 to R3

ORDER

The issue involved in the present writ petition is squarely covered by the earlier orders passed by this Court and hence, the main writ petition itself is taken up for final hearing.

2. This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 19.08.2024 and for a consequential direction to the respondents to approve the appointment of the petitioner as BT Assistant (Science) in the 4th respondent school with effect from 01.12.2021 with



all consequential and monetary benefits.

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3. The case of the petitioner is that the 4th respondent school is a aided linguistic minority institution. A vacancy arose in the post of B.T.Assistant (Science) during the year 2021. The 4th respondent school appointed the petitioner in the said vacancy and the petitioner joined the 4th respondent school on 01.12.2021.

4. The further case of the petitioner is that the 4th respondent school submitted a proposal dated 07.02.2022 seeking for the approval of the appointment of the petitioner to the 2nd respondent through the 3rd respondent. The 3rd respondent passed an order dated 31.01.2024, rejecting the approval. The said order was put to challenge before this Court in WP No.6997 of 2024.The said writ petition was disposed of by an order dated 21.03.2024 by directing the 4th respondent school to resubmit the proposal to the 2nd respondent and with a further direction to the 2nd respondent to deal with the same and pass appropriate orders in accordance with law.



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5. Pursuant to the above order, the proposal was resubmitted to the 2nd respondent and the 2nd respondent through the impugned proceedings dated 19.08.2024 has refused to grant approval on the ground that the petitioner has not qualified in TET. Aggrieved by the same, the present writ petition has been filed before this Court.

6. Heard Mr.S.N.Ravichandran and Mrs.P.Rajareshwari, learned Government Advocate for Respondents 1 to 3.

7. The issue involved in the present writ petition is squarely covered by the Judgement of the Division Bench in WP MD No.10824 of 2021 and batch. The Division Bench has categorically held that TET is not be applicable to teachers appointed in the minority institutions. When a similar writ petition came up before this Court in WP No.24834 etc., of 2024, this Court allowed the writ petition by an order dated 30.08.2024. The relevant portions are extracted hereunder :-

5.Pursuant to the above order, the 3rd respondent through proceedings dated 28.06.2024 has rejected the approval only on



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the ground that the petitioners have not acquired TET eligibility.

Aggrieved by the same, these writ petitions have been filed before this Court.

6.In the considered view of this Court, the 5th respondent School is a minority School and therefore, it is now too well settled by virtue of earlier orders passed by this Court that TET eligibility is not applicable to minority Schools. In view of the same, the 3rd respondent ought not to have rejected the approval on that ground.

7.The learned Special Government Pleader appearing on behalf of the respondents 1 to 4 submitted that as against the orders passed by this Court, the State Government has filed the Special Leave Petition in SLP (Civil) No.2691 of 2022 and the same is pending before the Apex Court. The mere pendency of the SLP will not defeat the claims made by the petitioners and the respondents have to go only by the law that prevails as on today.



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8. In the light of the above discussion, the impugned proceedings of the 3rd respondent dated 28.06.2024 is hereby set aside. The matter is remitted back to the file of the 3rd respondent and the 3rd respondent is directed to accord approval for the appointments of the petitioners if they are otherwise eligible. It is made clear that the 3rd respondent will not once again put against the petitioners the TET eligibility for according approval. This process shall be completed by the 3rd respondent, within a period of four weeks from the date of receipt of copy of this order.

8. The above reasoning given by this Court will squarely apply to the facts of this case also.

9. In the light of the above discussion, the impugned order passed by the 2nd respondent in Na. Ka. No. 002381 / Aa2 / 2024, dated 19.08.2024 is hereby set-aside. The matter is remitted back to the file of the 2nd respondent and the 2nd respondent is directed to accord approval for the appointment of the



petitioner, if he is otherwise eligible. It is made clear that the 2nd respondent should not once again put against the petitioner the TET eligibility for according approval. This process shall be completed by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order.

10. In the result, this writ petition is allowed with the above directions.

No costs. Consequently, the connected miscellaneous petition is closed.

18.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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To
1. The Director of School Education,



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