



W.P.(MD)No.527 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.527 of 2024 &
W.M.P.(MD)Nos.637 & 638 of 2024

A.Kohila

... Petitioner

vs.

1.The District Educational Officer (Primary),
O/o.The District Educational Officer,
Madurai, Madurai District.

2.The Block Educational Officer,
O/o.The Block Educational Officer,
Madurai North Zone,
Madurai District.

3.The Secretary,
Madurai City Middle School,
Ansari Nagar, 4th Street,
Madurai District.

... 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 relating to the impugned order passed by the first respondent in proceedings in Na.Ka.No.3678/A4/2023 dated 21.12.2023 and quash the same as illegal and consequently direct the first respondent to approve the appointment of the petitioner as Middle School Headmistress with effect



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from 21.11.2022 and disburse the arrears of salary within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
For Respondents : Mr.M.Siddharthan,
Additional Government Pleader
for R1 and R2

ORDER

Heard Mr.H.Mohammed Imran, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 and 2.

2. The petitioner has filed this petition seeking a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in Na.Ka.No.3678/A4/2023 dated 21.12.2023; quash the same and consequently direct the first respondent to approve her appointment as Middle School Headmistress with effect from 21.11.2022 and disburse the arrears of salary within the period that may be stipulated by this Court.



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3. The petitioner has been appointed as a Middle School Headmistress in the third respondent School, which is a minority private aided school, on 21.11.2022. The third respondent School had forwarded a proposal to the second respondent for approval of appointment of the petitioner. However, the second respondent vide proceedings dated 30.03.2023 has returned the proposal mentioning some discrepancies. Challenging the above, the petitioner has filed a writ petition before this Court in W.P.(MD)No.17099 of 2023, wherein, by order dated 31.08.2023, the third respondent School was directed to re-submit the proposal by rectifying the defects and thereafter, the second respondent was directed to pass appropriate orders. Accordingly, the third respondent School had re-submitted the proposal on 20.02.2023. Even then, the first respondent vide impugned proceedings dated 21.12.2023 had rejected the proposal on the ground that the petitioner has not passed in Teacher Eligibility Test. Challenging the same, this writ petition is filed.

4. The legal issue whether a pass in Teacher Eligibility Test is mandate for approval of appointment in minority schools has already been



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dealt with elaborately by the Hon'ble Division Bench of the Principal Seat of this Court in W.A.No.313 of 2022 etc., batch by order dated 02.06.2023, wherein in paragraph no.71.1, it is held as follows.

“C. W.A.Nos.19, 31, 32, 36 of 2023:

WHETHER TET IS A NECESSARY MANDATE FOR TEACHERS APPOINTED IN MINORITY SCHOOLS

*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 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 *ultra vires* the Constitution, meaning thereby that the 2009 Act will not apply to minority*



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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 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.”

5. In the instant case, the petitioner, who was appointed in the third respondent minority school, was denied of appointment approval *citing* the reason that she has not cleared Teacher Eligibility Test. However, in the above Judgment, it is made crystal clear that Teacher Eligibility Test clearance is not required for granting approval to appointment of teachers in the minority schools (both aided and unaided).

6. In view of the same, the writ petition is **allowed** and the impugned order passed by the first respondent in Na.Ka.No.



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3678/A4/2023 dated 21.12.2023 is quashed and the first respondent is directed to approve the appointment of the petitioner as Middle School Headmistress *w.e.f.* 21.11.2022 and disburse the arrears of salary, if any, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

- 1.The District Educational Officer (Primary),
O/o.The District Educational Officer,
Madurai, Madurai District.
- 2.The Block Educational Officer,
O/o.The Block Educational Officer,
Madurai North Zone,
Madurai District.



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R.N.MANJULA, J.

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