



W.P.(MD)No.4838 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2024

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD)No.4838 of 2024 &  
W.M.P(MD)No.4655 of 2024

Sri Muthiah Pillai Memorial  
Higher Secondary School,  
Represented by its Secretary,  
S.Maguda Gandhan,  
S/o.S.Selvakumaravel,  
Cumbum, Theni District

... Petitioner

VS.

1.The Director of School Education,  
DPI Campus, College Road,  
Chennai - 600 006.

2.The Chief Educational Officer,  
O/o.The Chief Educational Officer,  
Theni.

3.The District Educational Officer (Elementary)  
O/o.The District Educational Officer,  
Theni 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  
pertaining to the impugned order in Na.Ka.No.0905-Aa2-23 dated



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14.11.2023 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the second respondent to grant approval to the promotion granted to Mr.R.N.Saravanan in the post of B.T.Assistant in Tamil at petitioner's school with effect from 09.04.2021 with all consequential benefits within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Raja Simman

For Respondents : Mr.T.Amjadkhan  
Government Advocate

### ORDER

Heard Mr.T.Aswin Raja Simman, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents.

2. The petitioner has filed this petition to quash the order in Na.Ka.No.0905-Aa2-23 dated 14.11.2023 on the file of the second respondent and consequently direct the second respondent to grant approval to the promotion of Mr.R.N.Saravanan for the post of B.T.Assistant in Tamil at petitioner School with effect from 09.04.2021



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with all consequential benefits within the time period stipulated by this Court.

3. The petitioner School had promoted one Mr.R.N.Saravanan and appointed him to the post of B.T.Assistant in the vacancy arising due to the death of one R.Karpagam on 01.03.2020. The petitioner School had forwarded a proposal relating to the appointment of Mr.R.N.Saravanan in the post of B.T.Assistant to the second respondent for approval. But, the papers were returned stating that the appointee ought to have qualified in Teacher Eligibility Test and by citing the Judgment of this Court dated 02.06.2023 in W.A.No.313 of 2022 and batch. In the said Judgment, the following conclusions have been arrived after elaborate discussion.

*"74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:*

*(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant*



*prior to 29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc., irrespective of their dates of original appointment, they must necessarily possess TET, failing which they will not be eligible for promotion.*

*(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.*

*(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET. **\*The principles laid down in this judgment will not have application to minority schools, both aided and unaided as explained in paragraph no.71.1.***

*(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes*



*“a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down, thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.*

*(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory."*

4. However, the petitioner claims that he was appointed prior to the above Judgment and hence, the condition of passing Teacher Eligibility Test will not be applicable to him.

5. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents submitted that the Government Order in G.O.Ms.12, School Education (EE1(1)) dated 30.01.2020 has come into force even before the appointment and Teacher Eligibility Test is a part of the said



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Government Order and hence, any person appointed subsequent to the Government Order ought to have qualified in Teacher Eligibility Test.

6. The argument of Mr.T.Aswin Raja Simman, learned counsel for the petitioner is that such eligibility criteria can be applied prospectively from the date of Judgment and not any time before. He further submitted that the petitioner School is an Aided Institution and hence, for the appointments made in such schools, the condition of passing Teacher Eligibility Test is unnecessary.

7. However, it is learnt that the issue is pending before the Hon'ble Supreme Court in S.L.P.(C)No.21178 of 2023 and the outcome of the said petition would have an impact upon the similar such appointments made.

8. At this juncture, the learned counsel for the petitioner would submit that the petitioner should be permitted to withdraw the petition with a liberty to file a fresh writ petition subject to the outcome of the



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S.L.P.(C)No.21178 of 2023.

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9. In view of the above submission, this writ petition is **dismissed as withdrawn** and liberty is granted to the petitioner to file a fresh petition on the same cause of action subject to the outcome of the S.L.P.(C)No.21178 of 2023. No costs. Consequently, connected Miscellaneous Petition is closed.

03.04.2024

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

To

- 1.The Director of School Education,  
DPI Campus, College Road,  
Chennai - 600 006.
- 2.The Chief Educational Officer,  
O/o.The Chief Educational Officer,  
Theni.
- 3.The District Educational Officer (Elementary)  
O/o.The District Educational Officer,  
Theni District.



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R.N.MANJULA, J.

*mbi*

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