



W.P(MD)No.5869 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P(MD)No.5869 of 2024
and
W.M.P(MD)No.5530 of 2024

Ashiba Jenish

... Petitioner

Vs.

1.The Chief Educational Officer,
Madurai Educational District,
Madurai.

2.The District Educational Officer,
Melur,
Madurai District.

3.Al Ameen Urdu Tamil High School,
Represented by its Correspondent,
Melur,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the first respondent in his proceedings in Na.Ka.No.09103/A6/2023, dated 18.01.2024 and quash the same as illegal and consequently, direct the respondents to approve the appointment of the petitioner to the post of B.T Assistant (English) in the third respondent School with effect from the date of



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her initial appointment ie., 04.09.2019 with all attendant benefits within the time stipulated by this Court.

For Petitioner : Mr.E.Mareeskumar
For Respondents : Mr.T.Amjad Khan
Government Advocate
for R.1 & R.2

ORDER

The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings of the first respondent in Na.Ka.No.09103/A6/2023, dated 18.01.2024 and and consequently, to direct the respondents to approve the appointment of the petitioner to the post of B.T Assistant (English) in the third respondent School with effect from the date of her initial appointment ie., 04.09.2019 with all attendant benefits within the time stipulated by this Court.

2.Heard Mr.E.Mareeskumar, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 and 2.



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3. The petitioner was appointed as a B.T Assistant (English) in the third respondent School on 04.09.2019, in the vacancy that arose due to the retirement of one A.Farida Begum as a Secondary Grade Teacher and the conversion was sought in view of her appointment. In view of the conversion approved by the authorities, the Management has sent a proposal to the second respondent, who in turn had forwarded the same to the first respondent. The first respondent vide impugned order, dated 18.01.2024 has rejected the approval on the ground that the petitioner has not passed the TET examination. The eligibility of passing TET is concerned, it is time and again held by various judicial pronouncements that minority Schools should not be insisted of such qualification for making appointment to the post of B.T Assistant.

4. A similar issue has been dealt by a Division Bench of this Court in ***W.A(MD)No.313 of 2022 and batch (The Director of School Education & Others Vs. M.Velayutham & Another)***, dated **02.06.2023**, wherein, in paragraph No.71.1, it has been held as follows:



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'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 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.'



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5. As the issue is no more *res-integra* and settled that the mandate of TET eligibility is not required for the minority educational institutions in **W.A(MD)No.313 of 2022 and batch (The Director of School Education & Others Vs. M.Velayutham & Another), dated 02.06.2023**, cited supra, the impugned order, dated 18.01.2024 passed by the first respondent is set aside and the matter is remitted back to the file of the first respondent and the first respondent is directed to pass orders afresh granting approval to the appointment of the petitioner with effect from the date of her initial appointment ie., 04.09.2019 and disburse the grant-in-aid towards her salary and allowance with effect from the above said date, however, subject to the outcome of the Writ Appeal in W.A(MD)No.432 of 2023.

6. This Writ Petition is **allowed** on the above terms. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

25.06.2024

NCC : Yes / No
Index : Yes / No
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To

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R.N.MANJULA,J.

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