



W.P(MD)No.5806 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.5806 of 2024
and
W.M.P(MD)No.5474 of 2024

S.Gayathri

... Petitioner

Vs.

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

2.The District Education Officer (Secondary Grade),
Tenkasi,
Tenkasi District.

3.The Correspondent,
The CMML High School,
Vadamalpuram,
Tenkasi District.

... 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 pertaining to the impugned order in Oo.Mu.No.6301/A3/2024, dated 22.02.2024 on the file of the second respondent and quash the same as illegal and consequently to direct the respondent Nos.1 and 2 to approve the appointment of the petitioner as a B.T Assistant (Tamil) in the third respondent School on the basis of the proposal sent by the



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said School on 12.06.2023 without insisting for qualification in the TET Examination in light of the decision of the Hon'ble Supreme Court and disburse the grant-in-aid towards his salary.

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 order in Oo.Mu.No.6301/A3/2024, dated 22.02.2024 on the file of the second respondent and consequently to direct the first and second respondent to approve the appointment of the petitioner as a B.T Assistant (Tamil) in the third respondent School on the basis of the proposal sent by the said School on 12.06.2023, without insisting for qualification in the TET Examination in light of the decision of the Hon'ble Supreme Court and disburse the grant-in-aid towards his salary.

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 (Tamil) in the third respondent School on 12.06.2023, in the vacancy that arose due to the promotion of one Paul Samuvel as a Headmaster. When the Management has sent a proposal to the first respondent through the second respondent for approval, the second respondent returned the same stating that no instructions from the Government had been obtained with regard to the appointment to the post of B.T Assistant. In the impugned order, neither any G.O is shown in the reference nor in the body of the order. So far as the post against which the petitioner was appointed is a sanctioned post during the relevant academic year and the said fact was not denied by the respondents. Further, the eligibility of passing TET is concerned, it is time and again held by various judicial pronouncements that there is no mandate for minority School to have qualification in TET.

4. A similar issue has been dealt by the 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 22.02.2024 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., 12.06.2023 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.

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NCC : Yes / No
Index : Yes / No
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R.N.MANJULA,J.

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