



W.A.(MD)No.1037 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1037 of 2024

and

C.M.P.(MD)No.7568 of 2024

1.The Director of School Education,
O/o. The Directorate of School Education,
DPI Compound, College Road,
Chennai – 6.

2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Madurai, Madurai District.

3.The District Educational Officer,
O/o. The District Educational Officer,
Melur,
Madurai District.

: Appellants

Vs.

Jothi Higher Secondary School,
Narimedu,
Madurai,
Represented by its Correspondent,
R.Arun

: Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 20.12.2023 in W.P.(MD) No.30389 of 2023, on the file of this Court and allow the Writ Appeal.

For Appellants	: Mr.S.Shaji Bino Special Government Pleader
For Respondent	: Mr.M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This Writ Appeal has been directed against the order passed in W.P.(MD)No.30389 of 2023 dated 20.12.2023.

2.The respondent school has appointed one S.Vallinayaki, as B.T.Assistant [Science] on 02.03.2020, in the post that has become vacant as the erstwhile incumbent attained superannuation on 29.02.2020. Therefore, such appointment was made by the respondent school.

3.It is an admitted fact that the school is a minority aided recognised institution.



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4.The said appointment has been forwarded for seeking approval to the education authorities namely the appellants herein.

5.The first appellant herein having considered the said proposal sent by the school has passed an order on 29.11.2023, whereby the approval proposal has been rejected for the only reason that the teacher concerned ie., the first respondent did not qualify with Teacher Eligibility Test [TET]. Except this reason, no other reason since has been given, that has been questioned by the first respondent before the Writ Court.

6.The learned Writ Court having considered the aforesaid factual matrix, taking note of the Division Bench judgment in W.A.No.313 of 2022 and batch cases dated 02.06.2023, has allowed the said writ petition.

7.Aggrieved over the said order passed by the Writ Court, the present Writ Appeal has been directed.

8.Heard the learned Counsel appearing for the parties.



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9. Learned Senior Counsel appearing for the respondent has submitted that insofar as the requirement of TET for the teacher to be appointed in the minority institutions are concerned, the issue has been settled by atleast two Division Bench judgments and the last one is dated 02.06.2023, which is the latest decision. Assuming that the Private Schools Regulation Act and the Rules made thereunder though insist upon that the teachers appointed in all schools must have TET qualification, such insistment should be made only after the Act came into force in the year 2023. However, insofar as the appointment that is made for the first respondent is concerned, the same was made on 02.03.2020 and the regime under which such appointment is made is fortified by the decisions of the Division Bench, whereby it is held that such requirement of TET qualification was not required and therefore, in respect of the teachers who had been appointed in private aided minority institutions are concerned, such insistment of TET qualification cannot be made by the authorities concerned. Therefore, since the said reason is the only reason cited in the order dated 29.11.2023, passed by the first appellant, the said order has been rightly set aside by the learned Writ Court. Hence, it does not warrant any interference, he contended.



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10.Even though an attempt has been made by the learned Special Government Pleader for the appellants to state that the said issue has been referred to a Full Bench and therefore, pending decision of the larger bench, such kind of appointments cannot be approved, this Court is not impressed by the said submission made by the learned Special Government Pleader.

11.Here in the case on hand, the appointment was made on 02.03.2020. Therefore, that appointment when was considered by the authorities concerned, the then prevailing law alone shall be taken into account. Even as on today, the judgment of the Division Bench has not been modified, even though a reference has been made to the larger Bench. Unless or until the judgment of the Division Bench is modified, the same is occupying the field and the law prevailing as of now alone shall be taken into account. Therefore, the order passed by the first appellant dated 29.11.2023, rejecting the approval proposal sent by the second respondent school is unlawful. Therefore, there is every justification on the part of the learned Single Judge who allowed the said writ petition. Accordingly, it does not warrant any interference on the said judgment. Therefore, the present Writ Appeal fails and is liable to be dismissed.



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12.Accordingly, this Writ Appeal stands dismissed. The needful as directed by the learned Single Judge in the impugned order dated 20.12.2023, shall be complied with by the appellants within a period of two [2] months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

21.06.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

MR

ORDER MADE IN
W.A.(MD)No.1037 of 2024

21.06.2024