



W.P.(MD)No.18001 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.18001 of 2024 &
W.M.P.(MD)Nos.15419 & 15420 of 2024

L.Jacob Linatson
Secondary Grade Teacher,
TELC Middle School,
Sattur, Virudhunagar District.

... Petitioner

VS.

- 1.The Director of Elementary Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 6.
- 2.The District Educational Officer (Elementary)
Virudhunagar, Virudhunagar District.
- 3.The Block Educational Officer,
Sattur, Virudhunagar District.
- 4.TELC Middle School,
Rep. by its Correspondent,
Sattur, Virudhunagar District.

... Respondents



W.P.(MD)No.18001 of 2024

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 of the second respondent in Na.Ka.No. 276/A1/2022 dated 24.07.2024 and quash the same and consequently direct the respondents 1 to 3 herein to approve the appointment of the petitioner as a secondary grade teacher in the fourth respondent school w.e.f. 17.08.2017 with all other attendant benefits.

For Petitioner : Mr.T.Pon Ramkumar
For Respondents : Mr.T.Amjadkhan
Government Advocate
for R1 to R3

ORDER

Heard Mr.T.Pon Ramkumar, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Additional Government Pleader appearing for the respondents 1 to 3. Since no adverse order is going to be passed, notice to the fourth respondent is dispensed with.

2. The petitioner who has been appointed as a Secondary Grade Teacher in fourth respondent School has filed this writ petition stating that his appointment has not been approved when the proposal was sent



W.P.(MD)No.18001 of 2024

WEB COPY

by the fourth respondent School. The reason for not according approval is due to want of Teachers Eligibility Test and surplus Teachers available under the same corporate Management.

3. No doubt, the fourth respondent School is a minority institution and it falls under a corporate Management and it is for the fourth respondent School to satisfy the authorities concerned that during the relevant point of time, there was no surplus in the post of Secondary Grade Teacher in the corporate Management in order to enable the authorities to accord approval.

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



W.P.(MD)No.18001 of 2024

WEB COPY

“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 ultravires 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.”*



W.P.(MD)No.18001 of 2024

WEB COPY

5. When the above settled position has been followed in various other Judgments, it is not right on the part of the respondents to reject approval of appointment on the ground that the appointee did not have Teachers Eligibility Test qualification. Since the fourth respondent School is a minority institution, Teachers Eligibility Test is not required as per the position which is in force today.

6. As stated already, it is for the fourth respondent School to satisfy the authorities that there was no surplus in the corporate Management as on the date of appointment of the petitioner. However, in the impugned order, it is shown that the fourth respondent school's corporate Management has got surplus even from the year 2016-17. In such case, the fourth respondent School has to give a satisfactory report as to whether the surplus shown in the impugned order is correct and whether they are being deployed before making fresh appointments.

7. In view of the above observations, the writ petition is **disposed of** and the petitioner can approach the fourth respondent School



W.P.(MD)No.18001 of 2024

and place a request by attaching a copy of this order in order to enable the School to re-submit the proposal for approval of appointment of the petitioner within a period of two weeks from the date of request and on receipt of the same, the first respondent shall re-consider the same and pass orders on merits and in accordance with law within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.08.2024

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

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To

- 1.The Director of Elementary Education,
DPI Campus, College Road,
Nungampakkam, Chennai - 6.
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W.P.(MD)No.18001 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.18001 of 2024

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