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W.A.(MD)NO.2190 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

W.A.(MD)No.2190 of 2021 AND

C.M.P.(MD)No.10778 of 2021

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
 2. The Director of School Education,
College Road, Chennai – 600 006.
 3. The Chief Educational Officer,
Ramanathapuram, Ramanathapuram District.
 4. The District Educational Officer,
Paramakudi,
Ramanathapuram District.
- ... Appellants 1 to 4 /
Respondents 1 to 4

Vs.

1. M.Maharani,
B.T.Assistant,
Kshatriya Nadar Higher Secondary School,
Kamuthi,
Ramnad District.
- ... 1st Respondent / Writ petitioner
2. The Secretary,
Kshatriya Nadar Higher Secondary School,
Kamuthi,
Ramanathapuram District – 623 603. ... 2nd Respondent /
5th Respondent



Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.5626 of 2017 dated 08.03.2019 on the file of this Court and allow the writ appeal.

For Appellant : Mr.V.Om.Prakash,
Government Advocate.

For R-1 : Mr.K.Ragatheesh Kumar

For R-2 : No appearance.

* * *

J U D G M E N T

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The writ petitioner / first respondent herein was appointed as B.T.Assistant (History) in Kshatriya Nadar Higher Secondary School, Kamuthi on 28.02.2011. She did not possess TET qualification. However, her appointment was approved on 18.03.2011. Subsequently, the authorities initiated steps for cancelling the appointment. Getting into know of the same, the appointee / writ petitioner herein filed W.P. (MD)No.5626 of 2017 for forbearing the authorities from insisting that the writ petitioner should have passed TET for her employment. The



writ petition was allowed by the learned single Judge on 08.03.2019.

Challenging the same, this writ appeal has been filed.

3. The learned Government Advocate appearing for the appellants submitted that the Department had erroneously granted approval in favour of the writ petitioner even though she did not possess TET qualification. He relied on the notification dated 23.08.2010 issued by NCTE. He also harped on the fact that the school in which the writ petitioner was appointed is not a minority institution and that therefore, the petitioner cannot call in aid in view of the order passed by the Constitutional Bench of the Hon'ble Supreme Court in ***Pramati Educational and Cultural Trust and others V. Union of India [(2014) 8 SCC 1]***. We are not swayed by the said submission.

4. The Hon'ble Division Bench vide order dated **02.06.2023** in ***W.A.No.313 of 2022*** etc. batch had held that 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 TET. For getting promotion, they will have to necessarily possess TET. Failing which, they will not be eligible for promotion.



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5. Aggrieved by the said decision, the State filed SLP (Civil) Diary No.45649 of 2023 before the Hon'ble Supreme Court of India. Before the Hon'ble Supreme Court of India, it was specifically submitted by the learned Senior counsel appearing for the State that the direction given by the Hon'ble Division bench for continuation of teachers appointed prior to 29.07.2011 even without the TET qualification, is not being challenged. Since such a specific submission was made before the Hon'ble Supreme Court of India, the present challenge can no longer lie. The order impugned in this writ appeal is sustained. This writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)
22st November 2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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R.POORNIMA, J.

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