



W.P.(MD).No.22824 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22824 of 2024

and

W.M.P(MD) No.19348 of 2024

R.M.Deepika
B.T.Assistant (English)
Sri Onnuramaswamy Middle School,
Thevaram,
Theni District.

... Petitioner

Vs.

1. The Chief Educational Officer,
Office of the Chief Educational Office,
Theni, Theni District.
2. The District Educational Officer,
(Elementary)
Office of the District Educational Office,
Theni, Theni District.
3. The Block Educational Officer,
Office of the Block Educational Office,
Uthamapalayam,
Theni District.
4. The President,
Sri Onnuramaswamy Middle School,
Thevaram, Theni District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.139/ஆ3/2022, dated 12.09.2024 and quash the same as illegal and consequently to direct the respondents 1 and 2 to approve the appointment of petitioner as B.T.Assistant (English) w.e.f., 06.06.2019 without reference to pass in Teacher Eligibility Test (TET) and pay arrears of salary with all consequential benefits arising thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R1 to R3 : Mr.J.Ashok
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a B.T.Assistant (English), challenging the order passed by the second respondent herein on 12.09.2024 wherein the request of the School Management for approval of her appointment has been rejected on the ground that the petitioner has not passed TET Examination.



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2. A perusal of the records indicates that the petitioner was appointed as B.T.Assistant (English) in the fourth respondent School on 06.06.2019. The fourth respondent School is admittedly a Linguistic Minority Institution. The Management has forwarded the proposals for approval of the appointment of the writ petitioner. Under the impugned order, dated 12.09.2024 the second respondent has rejected the same on the ground that the petitioner has not passed TET examination. Challenging the same, the present writ petition has been filed.

3. According to the learned counsel appearing for the writ petitioner, since the fourth respondent School is a Linguistic Minority Institution, passing of TET Examination is not mandatory, in view of the judgment of the Hon'ble Division Bench of this Court.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 relying upon the counter had contended that unless the petitioner clears the TET examination, she would not be eligible to be appointed in the fourth respondent School which is a Minority Institution.



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5. The Hon'ble Division Bench of our High Court in W.A.No.313 of 2022 and batch case, dated 02.06.2023, in para No.71.1 held as follows:

*“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*



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Judge in the writ petitions is affirmed and the above four writ appeals are dismissed.”

6. In view of the judgment of Hon'ble Division Bench, TET is not mandatory for being appointed as a teacher in an aided minority institution. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the second respondent herein. The second respondent is directed to approve the appointment of the writ petitioner with effect from 06.06.2019 with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed to the extent as state above. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

18.10.2024

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

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