



WP No. 19214 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 19214 of 2025

AND

WMP NO. 21521 OF 2025, WMP NO. 21524 OF 2025

1. M.Rajeswari

D/o.P.S.Murugesan,

281, W-1 Ramsingh Nagar,

Near NGO Colony Annanji Vilakku,

Theni District.

2.A.Balasubramanian,

S/o.Adishesan,

444, West Raja Street, Nedungunam,

Tiruvannamalai District.

3.S.Jagadeesan,

S/o.Shanmugam,

210 Attur Main Road,

Thanneerpandhalkaadu,

Maariyamman Kovil Street,

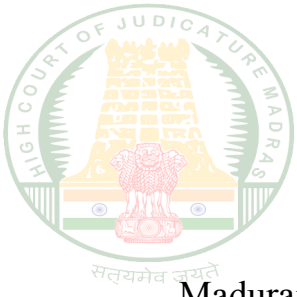
Moolapalipatti Rasipuram,

Namakkal District.

4.P.Ramachandran,

S/o. Palanisamy,

No.2/199, P.K.M.Nagar, Vandiyur,



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Madurai North, Madurai District.

5.R.Vinayagamurthi,
S/o.Rangasamy,
3/22, Mariyamman Kovil Street,
Vanur Taluk, Idaiyapattu,
Villuppuram District.

6.V.Shanmugam,
S/o.Velusamy,
4/12, Paramasivan Kovil Street,
Kasi Gounden Pudur, Sulur,
Kalangal, Coimbatore.

7.D.Latha,
D/o.Durairaj,
4/58, Est Street, P.Jegaveerapuram,
Kandasampuram, Thoothukkudi.

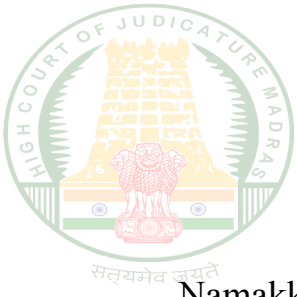
Petitioner(s)

Vs

1. The State Of Tamil Nadu
Rep. By Its Principal Secretary To
Government.
School Education Department,
Fort St.George, Chennai 600 009.

2.The Director Of School Education,
DPI Campus, College Road,
Chennai 600 006.

3.The Chief Educational Officer,
Namakkal Educational District,



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Namakkal.

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4.The Chief Educational Officer,
Theni Educational District,
Theni.

5.The Chief Educational Officer,
Tiruvannamalai Educational District,
Tiruvannamalai.

6.The Chief Educational Officer,
Madurai Educational District,
Madurai.

7.The Chief Educational Officer,
Villuppuram Educational District,
Villuppuram.

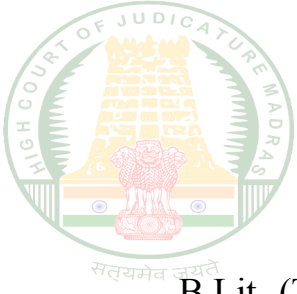
8.The Chief Educational Officer,
Coimbatore Educational District,
Coimbatore.

9.The Chief Educational Officer,
Thoothukkudi Educational District,
Thoothukkudi.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a writ of Mandamus, directing the respondents to include the
petitioners name in the panel list for the post of BT Assistant on recruitment
by transfer from TN Ministerial Service by considering their qualifications of



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B.Lit (Tamil) and Tamil Pandit Training (TPT) course pursuant to the judgment dated 21/03/2025 passed in W.P.No.9011 of 2022 and promote the petitioners as BT Assistant (Tamil).

For Petitioner(s): Ms. N. Kavitha Rameshwar

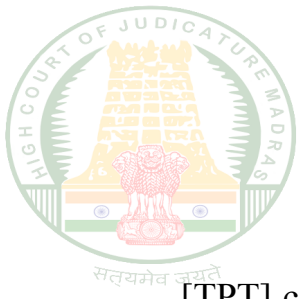
For Respondent(s): Ms. S. Mythreye Chandru
Special GP For R1 To R9.

ORDER

This writ petition has been filed seeking to direct the respondents to include the petitioners name in the panel list for the post of BT Assistant on recruitment by transfer from TN Ministerial Service by considering their qualifications of B.Lit (Tamil) and Tamil Pandit Training (TPT) course pursuant to the judgment dated 21/03/2025 passed in W.P.No.9011 of 2022 and promote the petitioners as BT Assistant (Tamil).

2. Heard Ms.N.Kavitha Rameshwar, learned counsel for the petitioners and Ms.S.Mythreye Chandru, learned Special Government Pleader appearing for the respondents.

3. The learned counsel for the petitioners would submit that the petitioners have completed their B.Lit degree, and Tamil Pandit Training



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[TPT] course. Subsequently, they have also passed 'Teachers Eligibility Test' ['TET']. It is the submission of the petitioners that as per the Government Order in G.O.Ms.No.175 School Education (M2) Department dated 19.07.2007, the in-service candidates viz., Superintendents, Assistants/Steno Typist and Junior Assistants/ Typists are entitled to be considered for the post of B.T.Assistant to the extent of 2% of total vacancy. The learned counsel would further submit that these petitioners were appointed as Junior Assistants between 2013-2014 and that they are eligible to be considered under 2% in-service quota. The learned counsel would further submit that they have also made representation in this regard. However, the same was not considered, as the petitioners did not have B.Ed., qualification. According to the petitioners, for all these years, those who completed B.Lit and TPT have also been considered for in-service quota. Therefore, contended that the petitioners are entitled to be considered, otherwise it would be in contravention to their legitimate expectation. In support of her contention, the learned counsel relied upon the Division Bench judgment of this Court held in ***T.Sudarmani & others Vs. The State of Tamil Nadu and others*** [WA.No.3366 of 2024 batch].

4. Per contra, the learned Special Government Pleader would contend that the petitioners do not have any vested right to be considered for the 2%



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in-service quota and that the petitioners' candidature could only be considered as per the extant Rule. The learned Special Government Pleader would further contend that the promotion is not a fundamental right and their consideration for promotion alone is a fundamental right, and according to the petitioners, when they reached the eligibility for consideration, the Rule has been amended, therefore, the petitioners' claim is devoid of merits. Further, they would contend that change of Service Rule is a policy decision of the Government. Therefore, the petitioners cannot claim any exemption to the Government Order. Apart from that, the filing of the present writ petition without challenging the Government Order is also a ground to deny the relief to the petitioners. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.

6. The short point to be considered is, whether the legitimate expectation of the petitioner is curtailed or not?. Before we delve into the above legal position, it is appropriate to set out the factual aspects. Admittedly, these petitioners were appointed as Junior Assistants between 2013-2014, and they admittedly have successfully completed B.Lit., TPT and TET qualification. It is the further admitted fact that, until the amendment came into existence in G.O.Ms.No.12, 13 and 14 dated 30.01.2020, they were



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eligible to be considered for the post of B.T.Assistant (Tamil) under 2% in-service quota. The Government has introduced the amendment vide G.O.Ms.Nos.12, 13 & 14 and made it mandatory that B.Ed., degree is an essential qualification for the post of B.T.Assistant (Tamil).

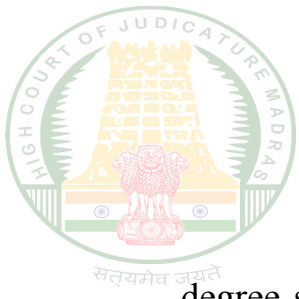
7. To controvert the same, the learned counsel for the petitioner relied upon the TET 2017 Notification and drawn analogy while inviting the eligibility criteria to write TET Paper-II, wherein, the Teachers Recruitment Board in the year 2017 Notification has stated as follows:-

“3. Eligibility to Write TET Paper II:

Candidates should possess the following prescribed qualifications to write the Teacher Eligibility Test Paper II:

*a. Candidates who have passed a Bachelor's Degree (B.A/B.Sc/B.Litt) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography as major subjects in their Degree course or a Degree with any one of the equivalent subjects (Regarding equivalent subjects, Government orders issued prior to the date of this notification alone will be considered) from a Recognised University under 10+2+3 Pattern and a Bachelor's Degree in Education (B.Ed.) from a Recognised University seeking an appointment as Graduate Teacher can write Paper II. **The candidates with B.Lt., (Tamil) degree should possess either B.Ed., or D.T.Ed or TPT.***

According to the above eligibility criteria, the candidates with B.Lit., (Tamil)

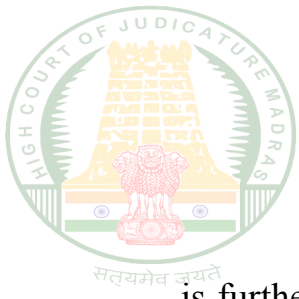


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degree should possess either B.Ed., D.T.Ed., or TPT. Therefore, contended that TPT Qualification is equivalent to B.Ed., degree. It is in this background urged that the non inclusion of TPT course as a qualification, in the amended Service Rule has violated their legitimate expectation. In support of this contention, the learned counsel relied upon the Division Bench judgement of this Court in ***Sudarmani's*** case [cited supra].

8. According to the facts of the ***Sudarmani's*** case [cited supra], when the Government has a power to relax 5% mark to appear for a TET and has been permitting the students to write TET by relaxing the 5% qualifying marks in the past several years, all of a sudden the Government cannot stipulate that the candidates should have secured minimum 45 marks in their Graduation to par take in the TET, which stipulation is nothing but denial of their legitimate expectation. The Hon'ble Division Bench in ***Sudarmani's*** case [cited supra] has relied upon the judgment of the Hon'ble Supreme Court in ***Ram Kumar Patel and others Vs. State of UP*** reported in (2018) 13 SCC 175, wherein the aspect of legitimate expectation has been dealt with, in extenso.

9. The doctrine of legitimate expectation is in the context of non arbitrariness and procedural fairness in administrative action of the State. It



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is further held that the legitimate expectation of the Authority must be based on past established practice and must yield to the public policy. After referring the above judgement of the Hon'ble Supreme Court, the Hon'ble Division Bench of this Court in ***Sudarmani***'s case [cited supra] has observed in paragraph 13 as follows:-

“13 In the present case, having allowed those, who possessed less than 45% marks in Graduation to write TET, they cannot now be denied the chance to be considered for the post of BT Assistant by stipulating a minimum of 45 % in Graduation. The expectation of the appellants is certainly founded in law as the past practice adopted had its source in the power given to the State to relax the qualifying marks by 5%. Further, there is no change in the policy or the Regulations applicable, meaning thereby that there is no overbearing public interest which justifies the taking away of the rights of the appellants to apply for and be considered for the post of teachers, especially when they have qualified themselves for B.Ed. as well as TET on the express promise made by the State on their eligibility to be admitted to B.Ed. as well as to participate in TET, both of which are essential eligibility criteria for being appointed as a Graduate teacher/ B.T. Assistant. Thus, this is a classic case attracting the doctrine of legitimate expectation in favour of the appellants. During the pendency of these appeals, this Court finding a prima facie case in favour of the appellants, had passed interim orders permitting the appellants to apply for the post of Graduate Teachers/Block Resource Teacher Educator(BRTE) pursuant to the notification dated 25.10.2023. The appellants have appeared for the competitive examinations pursuant to the interim orders.”

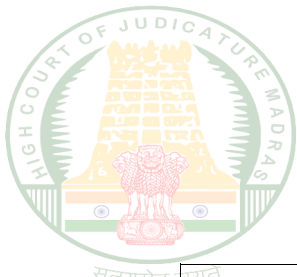


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10. The sum and substance of the above judgment is, when the State had relaxed the qualifying marks in the past, the sudden stipulation of enhancing the minimum marks from 40% to 45% is in violation to the past practice, and would affect their legitimate expectation to apply for the post of Teachers. In the above Division Bench judgement, the State has a power to relax the qualifying marks upto 5%, and such relaxation has all along been given, and suddenly it was withdrawn, therefore, such relaxation would tantamount to in violation of legitimate expectation.

11. But, in the case in hand, the Government after deliberation and with the assistance of the expert opinion altered the service Rule under Article 309 of the Constitution of India and also made it clear under Rule 6(b) that no person shall be eligible for appointment to the service in the respective post unless they qualify the required qualification. In the annexure, they have given qualification as follows:-



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II. 1. Graduate Teacher (Tamil)	<i>By Promotion or by transfer or by direct recruitment</i>	(a) Graduation and 2-year Diploma in Elementary Education (by whatever name known) or Graduation with at least 50% marks and Bachelor in Education (B.Ed.) or Graduation with at least 45% marks and Bachelor in Education (B.Ed) in accordance with the National Council for Teacher Education (Recognition Norms and procedure) Regulations issued from time to time in this regard. or Higher Secondary (or its equivalent) with at least 50% marks and 4-Year Bachelor in Elementary Education (B.El.Ed.) or Higher Secondary (or its equivalent) with atleast 50% marks and 4-year BA/B. Sc. Ed. or B.A.Ed./B.Sc.Ed. or Graduation with atleast 50% marks and B.Ed. (Special Education) and (b) Pass in Teacher Eligibility Test (TET) for direct recruitment: Provided that a person with B.Ed (Special Education) qualification shall undergo, after appointment, an National Council for Teacher Education recognized 6-month special programme in Elementary Education,
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12. Now to counter this qualification, the only contention put forth by the respondents is that by the conduct of the Teacher Recruitment Board construing TPT as equivalent to B.Ed., which is one of the essential



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qualification for considering the post of B.T.Assistant (Tamil), all of a sudden withdrawing such equivalence in the prescribed qualification is nothing, but in violation of the petitioners' legitimate expectation. But, in the case in hand, the Rule was introduced as per the Article 309 of the Constitution of India and such Rule is not under challenge before this Court. The judgment which relied by the petitioner qua ***Sudarmani***'s case [cited supra], deals about the eligibility criteria to participate in a Teachers Eligibility Test, and not in recruitment process. Further, the eligibility criteria fixed by the TRB is not based upon any service Rules, but by following the guidelines of NCTE which had given power to the State Government to relax the percentage of mark. But, we are dealing with a Service Rule, therefore in the backdrop of existing Service Rule seeking a Mandamus to permit the candidates, who does not have the qualification prescribed in the Service Rules is not permissible.

13. At this juncture, it is also relevant to refer the judgment of the Hon'ble Supreme Court in ***State of Himachal Pradesh and Others Vs. Raj Kumar & Others*** reported in (2023) 3 SCC 773, wherein it has been held that the employee does not acquire any vested right for being considered for promotion on the basis of the repealed Rules. For ready reference, this Court deems it appropriate to extract paragraph 36:-



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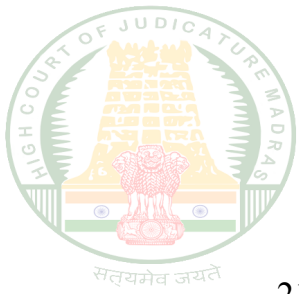
“Analysis

36. A review of the fifteen cases that have distinguished *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] . The findings in these judgments, that have a direct bearing on the proposition formulated by *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] are as under

1. There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, *Rangaiah case* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] must be understood in the context of the rules involved therein. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 26 : (2011) 2 SCC (L&S) 175; *Union of India v. Krishna Kumar*, (2019) 4 SCC 319, para 10 : (2019) 1 SCC (L&S) 655]

2. It is now a settled proposition of law that a candidate has a right to be considered in the light of the existing rules, which implies the “rule in force” as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 26 : (2011) 2 SCC (L&S) 175; *Union of India v. Krishna Kumar*, (2019) 4 SCC 319, para 10 : (2019) 1 SCC (L&S) 655]

3. The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire *any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government*. [*K. Ramulu v. S. Suryaprakash Rao*, (1997) 3 SCC 59, paras 12 & 13 : 1997 SCC (L&S) 625; *Shyama Charan Dash v. State of Orissa*, (2003) 4 SCC



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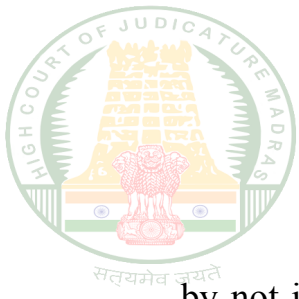
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218, para 9 : 2003 SCC (L&S) 449; *State of Punjab v. Arun Kumar Aggarwal*, (2007) 10 SCC 402, para 38 : (2008) 2 SCC (L&S) 377; *Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 28 : (2011) 2 SCC (L&S) 175] There is no obligation for the Government to make appointments as per the old Rules in the event of restructuring of the cadre is intended for efficient working of the unit. [*G. Venkateshwara Rao v. Union of India*, (1999) 8 SCC 455, para 4 : 2000 SCC (L&S) 72] The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14. [*Rajasthan Public Service Commission v. Chanan Ram*, (1998) 4 SCC 202, para 15 : 1998 SCC (L&S) 1075; *K. Ramulu v. S. Suryaprakash Rao*, (1997) 3 SCC 59, para 15 : 1997 SCC (L&S) 625]

4. The principle in *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately. [*Delhi Judicial Services Assn. v. Delhi High Court*, (2001) 5 SCC 145, para 5 : 2001 SCC (L&S) 776]

5. When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 25 : (2011) 2 SCC (L&S) 175]”

14. Therefore, it is a well settled principle of law that the employer has got absolute right to determine the qualification for the post. It is obvious that such determination is a result of consultation among the experts. No doubt, in view of such an amendment, some of them may get affected. But, when the Government took a policy decision and amended the Service Rule



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by not including TPT as one of the eligibility criteria for B.T.Assistant, that by itself cannot be considered as in violation of the legitimate expectation. As long as the Government has enacted a Rule, unless such Rule is set aside, the prospective candidates are bound by the stipulations made therein.

15. Though the contention made by the learned counsel for the petitioner that, had there been, an year-on-year recruitment under the 2% quota, the petitioners' case would have been considered well in advance and, they could have appointed as B.T.Assistant, it is appropriate to mention that the petitioners did not have any vested right to be promoted. At this juncture, this Court would like to refer the judgment of the Hon'ble Supreme Court in ***Tej Prakash Pathak v. High Court of Rajasthan***, reported in (2025) 2 SCC 1, wherein the constitution Bench of the Hon'ble Supreme Court has held that the doctrine of legitimate expectation does not impede or hinder the power of public authorities to lay down a policy or withdraw it. It has further held that the public authority has a discretion to exercise the full range of choices available within its executive power. Therefore, the petitioners cannot have any Mandamus in contravention to the existing Service Rules.

16. Apart from that, the learned Special Government Pleader relied upon the Division Bench Judgment of this Court in ***Silambu Vendhan and***



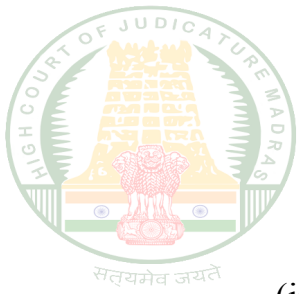
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others Vs. Union of India and others [WP.No.3219/2024], which is on the identical fact, wherein the Hon'ble Division Bench has categorically held that the prescription of qualification, age limit and other criteria for selection and appointment being prerogative of an employer and any challenge relating to Educational qualification is misconceived and deserves no merit consideration.

17. In the above case, the contention of the petitioners is similar to that of the present petitioners and their grievance is that, who secured B.Lit and Pulavar Pattayam Degree in TPT are not eligible to be appointed as a Graduate (Tamil) in the State Government, which is similar to the grievance of these petitioners. Therefore, when a similar issue has already been dealt with by the Hon'ble Division Bench, the issue becomes no longer *res integra*. Therefore, the contention of the petitioners that their case has to be considered as per old Rules, is far fetched on two folds.

(i) The candidates cannot have any legitimate expectation in contravention to the existing Service Rule framed under Article 309 of the Constitution of India; and



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(ii) On a similar identical facts, the Hon'ble Division Bench has held that the candidate has no locus standi to challenge the qualification, as it is a prerogative of the employer.

18. In such view of the above detailed discussions, this Court, though had a sympathy to the petitioners cannot grant any relief in their favour.

19. In the result, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected WMPs are also closed.

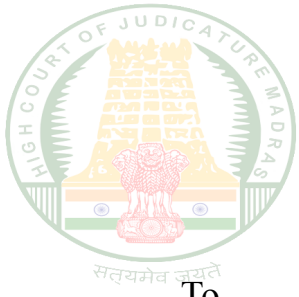
23-07-2025

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Index: Yes

Speaking order

Neutral Citation: Yes/No



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To

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1. The State Of Tamil nadu
Rep. By Its Principal Secretary To
Government. School Education
Department, For St. George,
Chennai 600 009.
2. The Director Of School Education,
DPI Campus, College Road,
Chennai 600 006.
3. The Chief Educational Officer,
Namakkal Educational District,
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C.KUMARAPPAN J.

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