



W.A.No.168 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.168 of 2023

and

C.M.P. No. 1611 of 2023

B.Manjula,
W/o.Simon Anand
Secondary Grade Teacher
St.Josephs Primary School,
Ullangankathan,
Kallakurichi,
Villupuram District.

... Appellant

Vs.

1.The District Elementary Education Officer,
Villupuram District.

2.The Additional Assistant Elementary Education Officer,
Chinna Salem Circle,
Chinna Salem,Villupuram District.

3.The Correspondent,
St.Joseph's Primary School,
Ullangankathan
Kallakurichi,



W.A.No.168 of 2023

Villupuram District.

... Respondents

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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No. 4511 of 2015 dated 18.08.2022.

For Appellant : Mr. K.S. Viswanathan
Ms. T. Hemalatha.

For Respondents : Mr. R. Neethiperumal, Government
Advocate.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

Challenge is made to the order of the learned Single Judge dated 18.08.2022 in W.P. No.4511 of 2015 filed by the appellant wherein the learned Judge has dismissed the writ petition.

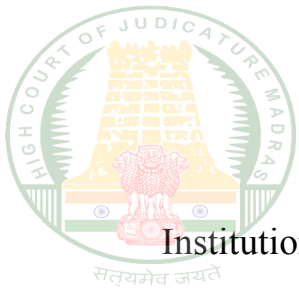
2.Heard the learned counsel for the appellant and the learned Government Advocate for the respondents 1 and 2 and perused the materials available on record.



W.A.No.168 of 2023

WEB COPY

3. The necessary facts leading to the disposal of this appeal are that the appellant was appointed as Assistant Teacher (Secondary Grade Teacher) with effect from 02.07.2012 vide appointment order dated 19.05.2012 under the third respondent who runs a minority aided School viz., St. Joseph's Primary School pursuant to the vacancy created on the retirement of existing incumbent and hence, the third respondent has sent a representation to the first and second respondents on 01.08.2012 requesting to approve the appointment of the appellant as Secondary Grade Teacher with effect from 02.07.2012. However, since the first respondent in his proceeding bearing No.O.Mu.No.5825/B4/2012 dated 02.02.2015 had rejected the approval of the appellant on the main ground that as per the regulations of the National Council for Teachers Education (NCTE), for appointment as Teacher one must pass Teachers Eligibility Test (TET) apart from possessing requisite educational qualification, the appellant has filed the writ petition challenging the said order of rejection. The learned Judge dismissed the writ petition stating that requisite qualifications prescribed by the State pursuant to the regulations issued by the National Council for Teachers Education (NCTE) cannot be dispensed with at any circumstances in favour of any Educational



W.A.No.168 of 2023

Institution, whether minority or majority. Challenging the said order, the appellant

has come by way of this appeal.

4.The learned counsel for the appellant submitted that the learned Judge failed to follow the binding precedent in respect of the proposition laid down by the Division Bench of this Court in '*The Secretary to Government Vs. S.Jeyalakshmi and another reported in 2016 (4) LW 841*' where G.O.Ms.No.181 School Education (C2) Department dated 15.11.2011 was challenged, it has been held that the Government order is not applicable to minority institutions and cannot insist on teachers working in minority institutions to acquire TET qualification after referring to the Judgment of the Hon'ble Apex Court in '*Pramati Educational & Cultural Trust and Ors. Vs. Union of India & Ors. (2014 (4)MLJ 484 (SC).*' However, the learned Judge has held that the said Judgment cannot be applicable to the instant case in view of the various Judgments of the Hon'ble Apex Court and has erroneously held that the Division Bench Judgments of this Court cited, running counter to the precedents laid down by the Hon'ble Apex Court, have denuded to loose its status as precedent. Hence, the learned counsel for the appellant submitted that the eligibility of TET pass as required for



W.A.No.168 of 2023

appointment of teachers in non-minority schools, will not apply to minority schools and sought for allowing this appeal.

5.The learned Government Advocate appearing for the respondents 1 and 2 contended that G.O.Ms.No.173 School Education (C2) Department dated 08.11.2011 and subsequent G.O.Ms.No.181 School Education (C2) Department dated 15.11.2011 mandates that aided and non-aided School teacher must be qualified in TET Examination and the Schools have no authority to appoint teacher bypassing the above said Government orders. Further, the learned Government Advocate has submitted that the learned Judge had rightly held that the ratio decidendi repeatedly reiterated in unequivocal terms by the Hon'ble Apex Court are to be followed in the matter of passing of TET which is the requisite qualification for appointment of teachers as per the regulations issued by NCTE and sought for dismissal of the appeal.

6.This Court in exercise of its power under Article 226 of the Constitution of India has been consistently holding that a pass in the Teachers Eligibility Test is



W.A.No.168 of 2023

not a mandatory pre-requirement for appointment of a Teacher in a minority school and that the educational authorities have no authority to reject a proposal for approval of such appointment made. The orders of the Division Benches of this Court in W.A.No.179 of 2024, dated 22.01.2024 [The Government of Tamil Nadu, Rep. by its Additional Chief Secretary, Department of School Education and others vs. T.Selvarani and another] and in W.A.(MD)No.670 of 2024, dated 12.04.2024 [The District Educational Officer, Sivagangai and another vs. Y.Joseph Mercy Rani and another], are two such orders, wherein, this ratio has been upheld.

7.Further in the Division Bench Judgment of this Court in W.A. No. 313 of 2022 & Batch dated 02.06.2023 [The Director of School Education and Ors. Vs. M. Velayutham and another], it has been held 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



W.A.No.168 of 2023

for appointment of teachers in non-minority schools, will not apply to minority schools.

8.Since the law has been laid down as aforesaid, we see no justification on the part of the authorities in having rejected the proposal of the third respondent seeking for approval of the appointment of the appellant. In view of the same, the impugned order passed in the writ petition is set aside and the proceeding of the first respondent bearing No.O.Mu.No.5825/B4/2012 dated 02.02.2015 is quashed.

9.Accordingly, the writ appeal is allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)

11.03.2025

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To

1.The District Elementary Education Officer,

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W.A.No.168 of 2023

Villupuram District.

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2.The Additional Assistant Elementary Education Officer,
Chinna Salem Circle,
Chinna Salem,Villupuram District.

3.The Section Officer,
VR Section,
High Court of Madras,
Chennai.

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

ay

W.A. No. 168 of 2023
and
C.M.P. No. 2611 of 2023



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W.A.No.168 of 2023

11.03.2025