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W.P.No.32321 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2025

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.32321 of 2025

B.Ashraf Ali

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Compound, College Road,
Nungambakkam, Chennai-600 006.

2.The District Educational Officer (Elementary),
Thirupattur, Thirupattur District-635 752.

3.The Block Educational Officer,
Mathanur,
Thirupattur District – 635 852.

4. The Correspondent,
Ishaathul Hasanth Aided Primary School,
No.5, Mohammed Pura 1st Street,
Ambur-635 802.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by



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the 2nd respondent in O.Mu.No.105/Aa1/2022, dated Nil..05.2023, and quash the same and consequently direct the respondents to approve the appointment of the petitioner, as Secondary Grade Teacher, in the 4th respondent school, w.e.f., 03.07.2022, with all consequential monetary benefits from 03.07.2022 to 04.10.2023.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.J.Ravindran, AAG
Assisted by
Ms.Mythreye Chandru
Special Government Pleader

ORDER

The petitioner has approached this Court seeking to quash the order dated Nil .05.2023 and consequently direct the respondents to approve the appointment of the petitioner as a secondary grade teacher in the 4th respondent-School with effect from 03.07.2022 with all consequential monetary benefits from 03.07.2022 to 04.10.2023.

2. The brief facts are narrated below:

(i) The 4th respondent-School is an aided religious minority institution protected under Article 30(1) of the Constitution of India. The petitioner had passed his higher secondary examination in the



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year 1997, and Diploma in Teacher Education in 2000. Thereafter, he passed B.Com, M.Com and M.Phil respectively. He had joined as a Headmaster in an unaided recognised institution, namely, Safiyama Primary school, Bilal Nagar, Ambur on 01.06.2000 where he served till 30.06.2022.

(ii) While so, a vacancy arose for the post of Secondary Grade Teacher (Urdu) on account of the voluntary retirement of one Nasira Parveen on 30.06.2022. The 4th respondent-School therefore selected and appointed the petitioner as a Secondary Grade Teacher (Urdu) vide order dated 03.07.2022 and on the same day, the petitioner had joined the School.

(iii) Pursuant to the appointment, the 4th respondent-School has submitted a proposal dated 08.08.2022 to the 2nd respondent through the 3rd respondent seeking approval of the petitioner's appointment with effect from 03.07.2022. The 3rd respondent had inspected the 4th respondent-School on 12.09.2022 and verified the student strength.



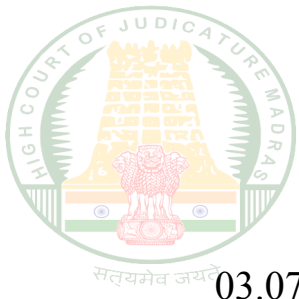
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Thereafter, he had recommended and forwarded the proposal to the 2nd respondent vide his proceedings dated 21.09.2022. Although a period of 9 months had lapsed, the 2nd respondent vide impugned order dated Nil.05.2023 rejected the proposal on the ground that the petitioner had not passed the Teacher Eligibility Test(TET). This order was communicated to the 4th respondent-School through the 3rd respondent by proceedings dated 14.07.2023. Challenging the same, the petitioner is before this Court.

3. The petitioner would contend that TET is not applicable for minority aided institution as held by the Division Bench of this Court. That apart, all the documents have been submitted by the 4th respondent-School and without perusing the same, the impugned order has been issued. Therefore, the order suffers from total non-application of mind on the part of the 2nd respondent.

4. It is informed by the learned counsel for the petitioner that the petitioner was working under the 4th respondent-institution from



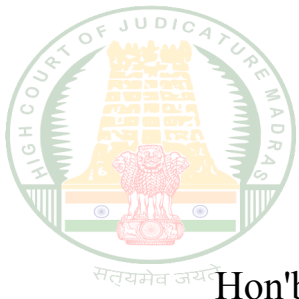
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03.07.2022 to 04.10.2023. Thereafter, he had shifted to another institution and unless the approval is granted, he will not be disbursed the salary for the period from 03.07.2022 to 04.10.2023.

5. Heard the learned counsels on either side and perused the materials available on record.

6. A mere perusal of the impugned order clearly demonstrates not only the non application of mind on the part of the 2nd respondent but also a reluctance to discharge his duties. This is evident from the reasons that have been given in the impugned order. The 1st ground on which the rejection has been made is that the 4th respondent has failed to furnish the new government order that has been issued by the Government with reference to the approval of new appointments made in unaided schools. The 2nd respondent is not aware about the judgement of the Division Bench of this Court reported in **2016 (4)CTC 841 [The Secretary to Government Vs. S.Jeyalakshmi and Another]** wherein this Court relying upon the judgment of the



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Hon'ble Supreme Court reported in **(2014) 8 SCC 1 [Pramati**

Educational & Cultural Trust v. Union of India] and the Right of Children to Free and Compulsory Education Act, 2009 held as follows:

“38. A plain reading of the above would make it clear that the Apex Court observing that if [RTE Act, 2009](#) is made applicable to the minority Schools, it will abrogate the right of the minorities conferred under [Article 30\(1\)](#) of the Constitution, held that [RTE Act, 2009](#) insofar as it is made applicable to the minority Schools is ultra vires the Constitution and also held that the judgment rendered by the Apex Court in Society for Unaided Private Schools with respect to the applicability of [RTE Act 2009](#) to the aided minority Schools is not correct. Thus, it is made clear that the [RTE Act, 2009](#) is not applicable to the aided or unaided minority Schools.”

Further, the Division Bench held as follows:

“50. In the light of the above discussed cases, it is clear that the State can impose reasonable regulations on the minority institutions for protecting the larger interest of the State and the nation, but it



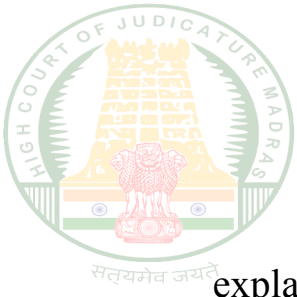
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should not destroy the minority character of the institutions. It is also not in dispute that the management of the minority Schools should be given freedom in the appointments of Teachers and there should not be any external controlling agency and the procedure for selection of Teachers should be evolved by the Management itself.”

7. Another Division Bench of this Court in W.A.No.313 of 2022 etc batch by order dated 02.06.2023 has clearly held that TET will not be applicable to appointments made in minority institutions. This judgment is presumed to have been circulated to all Educational Officers including the 2nd respondent. Despite the above judgments, the tenor of the impugned order clearly displays an indifference, incompetence and a reluctance to discharge the official duties. The 2nd respondent has attempted to relegate his jurisdiction to the 3rd respondent by stating that application for approval has to be nixed at the doors of the 3rd respondent himself. Therefore, the Secretary of the Elementary Education called for an



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explanation from the 2nd respondent who has signed the impugned order. Regarding the above, the concerned Officer is unable to justify the comments made by him in the impugned order.

8. Coming to the impugned order, the proposal has been rejected for the following reasons:

i. The present Government Order for granting approval for new appointments made in the aided institutions to be furnished.

ii. The original educational certificates of the teacher to be furnished.

iii. The genuine certificate was of the educational qualification of the teacher to be furnished.

iv. The order of recognition of the school and ABCD certificate to be furnished.

v. The sanctioning order of Secondary Grade



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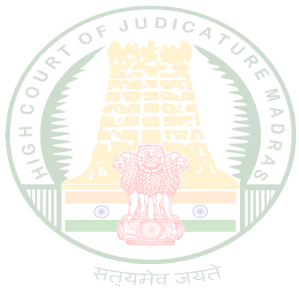
Teacher post to the school to be furnished.

vi. The certificate for passing of Teacher

Eligibility Test of the teacher to be furnished.

9. With reference to reasons 2 to 4 for rejection, it is seen that all the documents have already been enclosed in the proposal submitted by the 4th respondent and 6th ground is covered by the judgment cited supra in **2016 (4)CTC 841** and **W.A.No.313 of 2022 etc batch**. Therefore, the impugned order cannot be sustained and accordingly is set aside. Hence, the writ petition is allowed with the following directions:

The 4th respondent-School shall re-submit the proposal dated 08.08.2022 before the 2nd respondent along with the documents referred to in serial numbers 2 to 5 of the impugned order (which have been already submitted). On receipt of the same, the 2nd respondent shall consider the



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proposal and pass appropriate orders within a period of one month from the date of receipt of the proposal.

10. The learned Special Government Pleader appearing on behalf of respondents has given an undertaking that the salary would be disbursed to the petitioner for the period from 03.07.2022 to 04.10.2023. The said undertaking is recorded. No costs.

29.08.2025

srn

To

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Nungambakkam, Chennai-600 006.

2.The District Educational Officer (Elementary),
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3.The Block Educational Officer,
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