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W.A.No.191 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**Writ Appeal No.191 of 2025
and C.M.P.No.1306 of 2025**

1. The Director of School Education (Secondary)
DPI Campus, Chennai 600 006.

2.The Chief Educational Officer
Villupuam Taluk, Villupuram District.

... Appellants

Vs

1.J. Clemence
W/o. Mark Benny Bosco, B.T. Assistant (Science)
Lourdu Annai Higher Secondary School,
Kanakankuppam, Gingee Taluk, Villupuram Dt.

2.The Correspondent
Lorudu Annai Higher Secondary School,
Kanakankuppam, Gingee Tk, Villupuram Dt.

... Respondents

Writ Appeal under Clause 15 of the Letters Patent against the order dated
20.03.2024 in W.P.No.7537 of 2024.

For Appellants : Mr.U.M.Ravichandran
Special Government Pleader

For Respondents : Ms.Dakshayani Reddy, Senior Counsel
for Ms.S.S.Suneetha – for R1
Mr.B.Gopalakrishnan – for R2



W.A.No.191 of 2025

WEB COPY

J U D G M E N T

(Delivered by **R.SURESH KUMAR, J.**)

This intra-court appeal has been directed against the order dated 20.03.2024 in W.P.No.7537 of 2024.

2. In fact it was a common order which was passed by the Writ Court in three petitions ie., W.P.Nos.7535, 7537 and 7541 of 2024. However, as of now, only the present appeal has come up for hearing. It is submitted by the learned Special Government Pleader appearing for the appellants that two more intra Court appeals have been filed against the other two writ petitions in W.P.Nos.7535 and 7541 of 2024, of course against the very same order.

3. That the first respondent/writ petitioner was appointed as B.T.Assistant (Science) at the second respondent school, which is a recognized aided minority school. Such an appointment had been made in a sanctioned vacancy which fell vacant because the erstwhile incumbent retired from service. After making such appointment with effect from 04.06.2019, proposal had been sent by the second respondent school to the appellant Department for approval of such appointment.



W.A.No.191 of 2025

WEB COPY

4. However, the said proposal sent by the School has been rejected through the communication of the third appellant by order dated 26.02.2024, which was the order impugned before the writ Court. Two reasons were mainly cited, which were also projected on behalf of the appellant before the writ Court, for rejection of such proposal sent by the school. Firstly, there has been a ban of appointment by virtue of G.O.No.165 dated 17.09.2019 and therefore such an appointment could not have been made. Secondly, the teacher concerned i.e., the first respondent does not have TET qualification and without having the TET qualification, she ought not to have been appointed. These are the two reasons mainly stated by the appellant State in the order of rejection.

5. Considering these two reasons, the learned writ Court has taken into account the law having been declared by the Division Bench of this Court in W.A.(MD) No.76 of 2015 etc., batch dated 31.03.2021 under which G.O.No.165 dated 17.09.2019 has become inoperative and that issue has also been given a quietus. Insofar as the second reason that the teacher concerned does not have TET qualification is concerned, it has also been stated by another Division Bench in W.A.No.179 of 2024 dated 22.01.2024, where it has been held that after 29.07.2011, by way of direct recruitment or promotion from the post of Secondary Grade Teacher or by way of transfer if anybody is appointed, he/she



W.A.No.191 of 2025

must necessarily possess the qualification of TET, however the same will not have any application to minority run aided or unaided institutions. This legal position still holds good.

6. Though in this context, it is submitted by the learned Special Government Pleader that the issue as to whether such minority institutions, where the teachers appointed by the minority run institutions also must have TET qualification or not, has once again been re-opened before the Hon'ble Supreme Court and the issue is pending. Therefore, unless it is finally concluded, it cannot be stated that such of the teachers who are appointed by the minority institutions need not possess TET qualification, based on which such a decision taken by the writ Court is erroneous.

7. Even though such submissions are made by the learned Special Government Pleader, we are not impressed with the same, the reason being that as on date, the law having been declared by the Division Bench of this Court in the said judgment dated 22.01.2024 in W.A.No.179 of 2024 still holds the field and therefore, as of now such an insistence of TET qualification for teachers being appointed in minority institutions cannot be made.



W.A.No.191 of 2025

WEB COPY

8. Moreover, these appointments have been made in the year 2019 and therefore, during the relevant point of time and even subsequently since law is well settled, as no such insistment is required to have TET qualification for a teacher being appointed in minority institutions, even that reason also would not be sustained.

9. Therefore, these aspects having been considered by the learned Judge, he has rejected the rejection made on behalf of the employer ie., the State Government, and had ultimately allowed the writ petition by giving a direction to reconsider the proposal resubmitted by the management and to grant approval without insisting upon these two reasons. The said reasoning given by the learned single Judge and the conclusion arrived at by him including the direction given in the order impugned by the writ Court is strictly in consonance with the legal position, which is prevailing on this issue.

10. Therefore, we are not inclined to interfere with the order passed by the learned single Judge. In view of the same, the writ appeal fails and hence it is dismissed. In order to comply with the order passed by the Writ Court, two months time is granted to the appellants.



W.A.No.191 of 2025

WEB COPY

11. With the above directions, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
29.01.2025

NCS : Yes/No
Index : Yes/No
KST



WEB COPY



W.A.No.191 of 2025

R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.

KST

W.A.No.191 of 2025

29.01.2025