



W.P.No.29746 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29746 of 2018 and
W.M.P.No.34704 of 2018

S.M.Yasmeen Jabeen

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort.St.George, Chennai - 9.
- 2.The Chief Educational Officer,
Vellore, Vellore District 632 004.
- 3.The District Educational Officer,
Vaniyambadi, Vellore District - 632 004.
- 4.The Block Educational Officer,
Pernambut, Vellore District - 635 810.
- 5.The Manager and Correspondent,
Madrasa-E-Niswan Aided Primary School,
Oomerabad, Vellore District - 635 808.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



W.P.No.29746 of 2018

of the third respondent in his return order A.Thi.Mu.No.93/A2/2018 dated 10.10.2018 and quash the same and also direct the respondents 1 to 4 to grant approval of the petitioner's appointment as Secondary Grade Assistant Teacher (Urdu) in the 5th respondent Minority Aided School.

For Petitioner : Ms.Sonia Glory
For Respondents : Mrs.P.Rajarajeswari, GA

ORDER

This Writ Petition has been filed to call for the records of the third respondent in his return order A.Thi.Mu.No.93/A2/2018 dated 10.10.2018 and quash the same and also direct the respondents 1 to 4 to grant approval of the petitioner's appointment as Secondary Grade Assistant Teacher (Urdu) in the 5th respondent Minority Aided School.

2. Heard Ms.Sonia Glory, learned counsel for the petitioner, Mrs.P.Rajarajeswari, learned Government Advocate for the respondents 1 to 4 and perused the materials available on record.

3. The petitioner has been appointed as Secondary Grade Assistant Teacher (Urdu) on 10.07.2016 on the vacancy arose due to the promotion



W.P.No.29746 of 2018

of one A.Munira Begam on 01.06.2016. On 04.07.2016, the fifth respondent sent a proposal to the third respondent seeking approval for the appointment of the petitioner for the fifth respondent minority school and it was returned by the third respondent on 10.10.2018 for want of pass in TET.

4. The learned counsel for the petitioner submitted that since the fifth respondent School is a minority institution, the appointees in the fifth respondent School are exempted from passing TET.

5. The learned Government Advocate for the respondents 1 to 4 submitted that the request of the petitioner will be considered as per the direction of the Division Bench of this Court given in W.A.(MD).No.225 of 2019 etc., batch dated 19.04.2019.

6. However, the legal position on the requirement of TET eligibility for the teachers appointed in minority institutions have been settled by the judgment of the Division Bench of this Court held in



W.P.No.29746 of 2018

W.A.Nos.313 of 2022 etc. batch (The Directorate of School Education, Chennai and Others Vs. M.Velayutham and Another) in its order dated

02.06.2023. In the said judgment, it has been held as under:

"7. In the mean while, the legal position as to whether TET qualification is mandate for the Teachers appointed in the minority institutions have been settled by the Division Bench of this Court in W.A.No.313 of 2022 etc., batch, by its order dated 02.06.2023. In the said judgment, the following legal position have been crystallized under paragraph Nos.71.1, 72 and 73 as to whether TET is mandatory for the Teachers in minority school. The same is extracted hereunder:

“WHETHER TET IS A NECESSARY MANDATE FOR TEACHERS APPOINTED IN MINORITY SCHOOLS:

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 issued 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



WEB COPY



W.P.No.29746 of 2018

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



WEB COPY



W.P.No.29746 of 2018

72. *In the light of the above narration, taking note of the factual background, the legal provisions spelling out the intention of the legislature and the effect of the subordinate legislation pursuant thereto, the inescapable conclusion of this court would be that every teacher whether Secondary Grade or BT Assistant, whether appointed by direct recruitment or promotion in the case of BT Assistant, after the coming into force of the RTE Act and the NCTE notifications must necessarily possess/acquire the eligibility of a pass in TET. Therefore, the claim that Secondary Grade Teachers appointed prior to the commencement of the Act and notifications will now be eligible for promotion to the post of BT Assistant without passing TET, cannot be countenanced. For any fresh appointments, whether by direct recruitment in the case of Secondary Grade Teachers, or by either direct recruitment or promotion or transfer in the Graduate Assistants/BT Assistants, a pass in TET is an essential eligibility criteria to be fulfilled.*

73. *Further, it is made clear that all those appointed prior to 29.07.2011 are exempt from passing TET only for the purpose of continuance in the post of secondary grade teacher or BT Assistant without promotional*



W.P.No.29746 of 2018

WEB COPY

prospects. Any appointments whether by direct recruitment or promotion or transfer made after 29.07.2011, will have to necessarily adhere to the minimum eligibility criteria of passing TET."

8. Since the petitioner school is a minority institution, it is unnecessary to expect that the appointee to possess TET eligibility and hence, the objection on that ground cannot hold good."

7. Since the fifth respondent School is the minority institution, it is not fair on the part of the third respondent to return the file for want of TET eligibility. It should be within the knowledge of the Government respondents that the legal position has been settled in the case of ***The Directorate of School Education, Chennai and Others Vs. M.Velayutham and Another (cited supra)***. In such case, the third respondent ought to have informed the fifth respondent to resubmit the file for granting the order of approval. As no steps have been taken so far, I feel it is appropriate to set aside the impugned order.

8. In the result, this Writ Petition is allowed and the impugned



W.P.No.29746 of 2018

order passed by the third respondent in A.Thi.Mu.No.93/A2/2018 dated

10.10.2018 is set aside and the third respondent is directed to grant

approval in view of the above legal position already settled by the

Division Bench of this Court in the case of *The Directorate of School*

Education, Chennai and Others Vs. M.Velayutham and Another and

pass orders granting approval of the petitioner's appointment as

Secondary Grade Assistant Teacher (Urdu) in the 5th respondent

Minority Aided School within a period of four weeks from the date of

receipt of a copy of this order. No costs. Consequently, connected

miscellaneous petition is closed.

Index : Yes /No

Speaking / Non-speaking

Neutral Citation : Yes / No

gsk

11.03.2025



W.P.No.29746 of 2018

WEB COPY

- To
- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort.St.George, Chennai - 9.
 - 2.The Chief Educational Officer,
Vellore, Vellore District 632 004.
 - 3.The District Educational Officer,
Vaniyambadi, Vellore District - 632 004.
 - 4.The Block Educational Officer,
Pernambut, Vellore District - 635 810.
 - 5.The Manager and Correspondent,
Madrasa-E-Niswan Aided Primary School,
Oomerabad, Vellore District - 635 808.



WEB COPY



W.P.No.29746 of 2018

R.N.MANJULA, J.

gsk

W.P.No.29746 of 2018 and
W.M.P.No.34704 of 2018

11.03.2025