



W.P.(MD)No.7304 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

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and

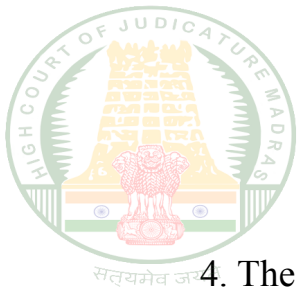
W.P.(MD)Nos.6721 & 6722 of 2024

Hajee Sikkender Howva Beevi,
Girls Higher Secondary School,
Represented by its Correspondent Mr.Hakkim Raja,
S/o.Abdul Hasan,
Virudhunagar Town and Taluk,
Virudhunagar District.

... Petitioner

Vs.

1. The Director of School Education,
Office of the Directorate of School Education,
DPI Complex,
College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
3. The District Educational Officer (Secondary),
Office of the District Educational Officer,
Virudhunagar District,
Virudhunagar.



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4. The Block Educational Officer,
Office of the Block Educational Officer,
Virudhunagar Block and District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in O.Mu.No.Aa3/1331/2023 dated 06.03.2024 and quash the same as illegal and unconstitutional and consequently directing the respondents to approve the appointment of one H.Fathima Rajula as a B.T.Assistant (Maths) in our School from the date of her initial appointment i.e., 12.06.2023 with all attendant benefits.

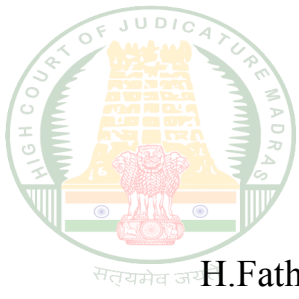
For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.T.Amjad Khan

ORDER

Mr.T.Amjad Khan, learned Government Advocate takes notice on behalf of the Respondents.

2. The instant Writ Petition has been filed by the Correspondent of the aided minority educational institution challenging the order passed by the 3rd Respondent herein on 06.03.2024, wherein the appointment of one



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H.Fathima Rajula as B.T. Assistant (Maths) has not been approved by the
WEB COPY authorities.

3. A perusal of the Impugned Order passed by the 3rd Respondent on 06.03.2024 reveals that the approval has been rejected on the following grounds:-

- a) *The appointee has not passed TET (Teacher Eligibility Test) examination;*
- b) *This school has not followed subject roster and without obtaining prior permission they have converted B.T.Assistant (Science) to B.T.Assistant (Maths);*
- c) *There are surplus teachers in the school.*

4. According to the learned counsel appearing for the Petitioner the Petitioner institution being a minority institution, a pass in TET (Teacher Eligibility Test) examination is not mandatory for appointment as a teacher. He further contended that as per staff fixation order for the academic year 2023-2024, two Science teacher posts have been sanctioned to the school out of which one of the Science teacher is already available. However, only one Maths teacher post has been sanctioned and the said



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post is also vacant. In such circumstances, the school is constrained to convert the post of B.T. Assistant (Science) to B.T. Assistant (Maths) so that the school can have at least have one Maths teacher. He further contended that the Petitioner institution being a standalone institution there are no surplus teachers. Hence, he prays for allowing the Writ Petition.

5. Per contra, learned Additional Government Advocate appearing for the Respondents contended that the appointees, having not passed the TET (Teacher Eligibility Test) examination is not entitled to get any approval. He further contended that when the B.T. Assistant (Science) teacher post has become vacant, the same has to be filled up only by the same subject teacher. If the school wants to convert the B.T. Assistant (Science) into B.T. Assistant (Maths) they should obtain proper approval. He further contended that there are surplus BT Assistant teachers in the other aided managements in the same district and therefore, the Petitioner cannot be permitted to fill up the B.T. Assistant teacher post.



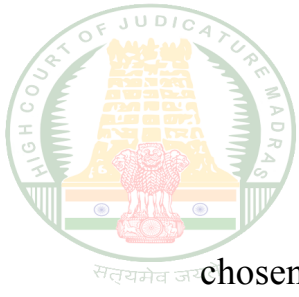
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6. I have carefully considered the submissions made on either side and perused the materials available on records.

7. The Hon'ble Division Bench of this Court in the case of **The Director of School Education D.P.I. Campus, College Road, Chennai and Others vs. M.Velayutham and another**, reported in 2023-3-L.W.112 has categorically held that a pass in TET (Teacher Eligibility Test) examination is not mandatory for being appointed as teacher in the minority institution. There is no dispute that the Petitioner institution is a minority institution. Therefore, non-passing of TET (Teacher Eligibility Test) examination cannot be a ground for rejecting the approval of the Petitioner.

8. A perusal of the staff fixation order for the academic year 2023-2024 reveals that the school was sanctioned with two B.T. Assistant (Science) teachers post and one B.T. Assistant (Maths) teacher post. Out of three posts one is already filled up. With respect to B.T. Assistant (Maths) teacher one post is vacant. In such circumstances, this school had



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chosen to convert B.T. Assistant (Science) to B.T. Assistant (Maths), so that the school can have at least one Maths teacher. Therefore, the school cannot be found fault with for converting B.T. Assistant (Science) to B.T. Assistant (Maths) considering the welfare of the students.

9. That apart, the Petitioner school is a standalone and surplus in any other aided management cannot be cited as a ground for rejecting the request of the aided minority educational institution for approval of the appointment.

10. In view of the above said deliberations, the Order impugned dated 06.03.2024 is set aside and the Respondents are directed to approve the appointment of H.Fathima Rajula as B.T. Assistant (Maths) teacher with effect from 12.06.2023 and pass appropriate orders within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To

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R.VIJAYAKUMAR, J.

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