



REV. APLC.(MD) No.67 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.04.2025

Pronounced on : 24.06.2025

C O R A M :

THE HONOURABLE MRS.JUSTICE **J. NISHA BANU**

and

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

Rev.Aplc.(MD).No.67 of 2025

and

CMP.(MD).No.6760 of 2025

K.Bashiri

..Review Applicant

Vs

1.The State of Tamil Nadu

Rep. By its Secretary

Department of School Education

Fort St.George, Chennai-600 009.

2,The Director of School Education,

College Road, Chennai-600 006.

3.The Chief Educational Officer

Madurai District, Madurai.

4.The District Educational Officer,



REV. APLC.(MD) No.67 of 2025

Elementary Education,
Melur, Madurai District.

5.The Correspondent

Melur Al-Ameen Urdu Tamil Muslim High School

Melur, Madurai District.

..Respondents

PRAYER : Review Application filed under Order 47 Rule 1 read with Section 114 of CPC to review the order passed in W.A.(MD).No.429 of 2025 dated 02.04.2025 by this court.

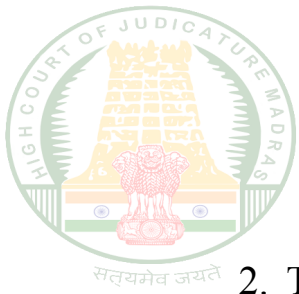
For Review Applicant : Mr.J.Lawrance

For Respondents 1 to 4 : Mr.J.Ashok, Addl.Govt.Pleader

ORDER

J.NISHA BANU, J.

This Review Application is filed praying to review the order passed in W.A.(MD).No.429 of 2025 dated 02.04.2025, wherein, this court allowed the Writ Appeal filed by the State and set aside the order passed in W.P.(MD).No. 9299 of 2024 dated 16.04.2024 and it is held that “since the candidate is not having TET qualification, the approval of appointment cannot be granted; the order passed by the Educational Department denying the approval is valid as far as TET qualification is concerned”.

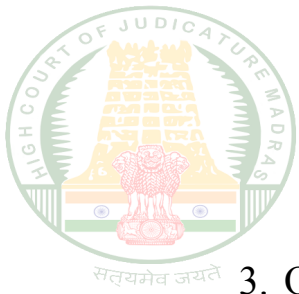


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2. The Writ Petitioner who succeeded in the writ court, has filed this Review Application seeking to review the Order passed in W.A.(MD).No.429 of 2025 dated 02.04.2025, contending;

a. That after hearing the arguments of the State in the Writ Appeal, at the time of admission, Orders were reserved on 04.02.2025. The same was allowed on 02.04.2025. Whereas, on the very same day, i.e., 04.03.2025, W.A. (MD).No.343 of 2025 preferred by the State, relating to another teacher from the very same 5th Respondent Institution was dismissed, though the issues involved in both the Writ Appeals were one and the same.

b. That 13 Co-ordinate Benches, including this Court, in W.A.(MD).No. 343/2025, having taken a different view, in case this Court was of a different opinion, differing from the views taken by the Co-ordinate Benches, it ought to have referred the matter to a larger Bench.



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3. On the issue as to whether, in the light of the law laid down by the Supreme Court in the case of *Society for Unaided Schools of Rajasthan and another* reported in **2012 6 SCC 102** and *Paramathi Educational Trust and Others* reported in **2014 8 SCC 1**, the qualification of the Teacher's Eligibility Test (TET) prescribed under Section 23 of the Right to Education Act, 2009, is applicable to minority institutions, this court is of the view, that the issues dealt in the said decisions of the Supreme Court do not relate or abridge the right of the State to prescribe educational qualifications for the teachers, which right is affirmed by the 11 Judges Constitutional Bench of the Supreme Court in the case of T.M.A.Pai Foundation reported in 2002 8 SCC 481. The decision in the *Paramathi's* case relates only to the issue whether the minority institutions can be compelled to give 25% admission to downtrodden children and thereby denying the right of the minority institutions to admit minority students of its choice. Therefore, the State's right to prescribe the educational qualification, i.e., TET to the teachers, under Section 23 of the Right to Education Act is not abrogated.



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4. However, we find that the Co-ordinate Benches have taken a different view. In W.A.Nos.213 and 517 of 2016, Mr.Justice Huluvadi G.Ramesh and Mr.Justice M.V.Muralidharan in the case of *Jeyalakshmi and another* reported in **2016 4 LW 841**, after taking note of the right of the State, affirmed in the case of TMA.Pai Foundation reported in **2002 8 SCC 481** holding that the right under Article 30(1) is not an absolute one and does not take away the right of the State to regulate the educational institutions by prescribing educational qualifications, proceeded to hold that, in view of the law laid down in *Paramathi Educational Trust and Others* reported in **2014 8 SCC 1** holding that RTE Act, 2009 is not applicable to minorities, the Government cannot enforce TET on minority institutions by the regulations framed under the provisions of the RTE Act.

“...45. The issue now left to be decided by us is whether G.O.Ms.No.181 dated 15.11.2011 issued by the Government prescribing a pass in TET as minimum qualification for Teachers will be binding on the minority institutions, in view of Article 30



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and the decision of the Supreme Court in *Paramathi Educational and Cultural Trust*....

...59. Insofar as minority institutions are concerned, the contention of the learned senior counsel appearing for the minority Schools is that when Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 received the assent of the President of India and it is still in force, it cannot be supplanted by an Executive Order, namely by G.O.Ms.No.181 dated 15.11.2011. Further, the Apex Court has clearly held in *Paramathi Educational & Cultural Trust* that RTE Act, 2009 is not applicable to the minority institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30(1) of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181 dated 15.11.2011, which was issued pursuant to the directions of NCTE, cannot be made applicable to the minority institutions....”



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This Court also followed the said decision in W.A.(MD).No.343/2025 dated 04.03.2025.

5. Therefore, there being an apparent conflict of opinion between two Co-ordinate Benches and different views taken by us in two different cases involving the same issue, we allow the Review Petition and refer the following questions of law to be determined by a larger Bench;

a. “Whether the decision of the Supreme Court in the case of *Paramathi Educational Trust and Others* reported in **2014 8 SCC 1** takes away the right of the State to prescribe educational qualifications of the teachers under Section 23 of the RTE Act, 2009 in minority institutions?

b. Whether the right of the State to prescribe minimum qualifications, salary, experience and other conditions bearing merit of an individual appointed as a teacher in an educational institution, affirmed by the Constitutional Bench of the Supreme Court in the case of *TMA.Pai Foundation* (2002 8 SCC 481) is limited only to non-minority institutions, by



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virtue of latter decision in the case of *Paramathi Educational Trust and Others (2014 8 SCC 1)*.”

6. Accordingly, Registry is directed to place the matter before the Honourable Chief Justice for reference to larger Bench.

[J.N.B.,J.] [S.S.Y.,J.]

24.06.2025

nvsri

To

- 1.The Secretary, Department of School Education
Fort St.George, Chennai-600 009.
- 2,The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer
Madurai District, Madurai.
- 4.The District Educational Officer,
Elementary Education,
Melur, Madurai District.
- 5.The Correspondent



REV. APLC.(MD) No.67 of 2025

Melur Al-Ameen Urdu Tamil Muslim High School
Melur, Madurai District.



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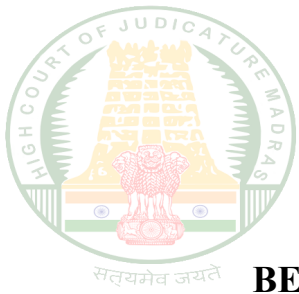
J. NISHA BANU, J.
and
S.SRIMATHY, J.

nvsri

Pre-Delivery Order in

Rev.Aplc.(MD).No.67 of 2025

24.06.2025



REV. APLC.(MD) No.67 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2025

PRONOUNCED ON : 24.06.2025

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV.APLC.(MD)No.67 of 2025

and

C.M.P.(MD)No.6760 of 2025

K.Bashiri

... Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 006.

3.The Chief Educational Officer,
Madurai District, Madurai.

4.The District Educational Officer,
Elementary Education,
Melur, Madurai District.

5.The Correspondent,
Melur Al-Ameen Urudu Tamil Muslim High School,
Melur, Madurai District.

... Respondents



REV. APLC.(MD) No.67 of 2025

Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the order made in W.A.(MD) No.429 of 2025, dated 02.04.2025, by this Court.

For Petitioner : Mr.J.Lawrance
For R1 to R4 : Mr.J.Ashok
Additional Government Pleader

ORDER

S.SRIMATHY, J.

After reading the order, I differ from the above order. Hence, the following order is passed:

The present review is filed against the order dated 02.04.2025, passed in W.A.(MD) No.429 of 2025.

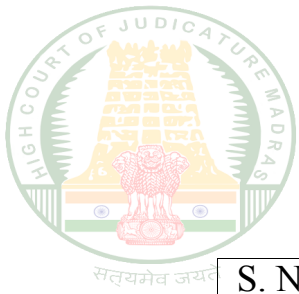
2. The writ petition was filed for issuance of a writ of Certiorarified Mandamus to quash the order dated 01.02.2024 passed by the 3rd respondent and consequently to direct the 3rd respondent to approve forthwith the petitioner's promotion as B.T. Assistant (Tamil) in the 5th respondent school with effect from the date of promotion on 13.06.2022 with all attendant benefits including the arrears of salary and allowance and the retirement benefits including pension from the date of retirement, dated 30.04.2023.



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3. The writ petition was allowed holding that TET is not applicable to minority institutions. Aggrieved over the same, the State preferred an appeal. The Court elaborately considered the provisions of law as well as the judgment rendered by the Hon'ble Supreme Court in the case of ***Pramati Educational and Cultural Trust and Others Vs. Union of India*** reported in ***(2014) 8 SCC 1*** and thereafter held that the TET is applicable to minority institutions also. Alleging there is error apparent on the face of record the present review application is filed.

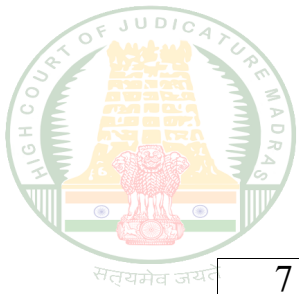
4. The main contention of the review applicant is that the other Coordinated Division Benches have held TET is not applicable to minority institutions, in such circumstances if the subsequent Coordinate Bench inclined to deviate, then it has to be referred to a Larger Bench. The review applicant had given the list such judgments passed by the earlier Division Benches and they are listed hereunder:



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S. No.	Case numbers	Date of the judgment
1	W.A.Nos.213 and 517 of 2016 The Secretary to Government Education Department and others v. S.Jeyalakshmi	24.08.2016 Reported in 2016-4-LW-841
2	W.A.(MD)No.948 of 2018 P.Savarimuthu Maria George Vs. The District Elementary Educational Officer, Virudhunagar District and others	13.12.2018
3	W.A.(MD)No.791,794,795,796 of 2020 Director of School Education and others vs. Mrs.J.Prabha Vinothini batch cases	09.09.2020
4	W.A.(MD)No.2142 of 2021 State and others vs. the Correspondent, Hyrathul Jamalia Higher Secondary School	30.11.2021 Reported in 2018 SCC Online Mad 12439
5	W.A.(MD)No.1865 of 2021 The Chief Education Officer and another v. Jhansi Rani and another	15.06.2023 (Neutral Citation No. 2023/MHC/3055)
6	WA.Nos.313, 833, 1891, 2050, 2082, 2617, 2795 of 2022 of 2022 and W.A.Nos.19, 31, 32, 36 of 2023 and W.P.Nos.3364 and 3368 of 2023 batch The Director of School Education and others v. M.Velayutham and another	02.06.2023



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7	W.A.(MD)No.670 of 2024 The District Education Officer and others v. Y. Joseph Mercy Rani	12.04.2024
8	W.A.(MD)No.72 of 2025 The District Educational Officer and another v. J.Esthermary and another	21.01.2025
9	W.A.(MD)No.550, 1692, 1693 of 2025	30.01.2025
10	W.A.(MD)No.343 of 2025 The Chief Educational Officer and another v. Ashiba Jenish and another	04.03.2025
11	W.A.(MD)No.168 of 2025	11.03.2025
12	W.A.(MD)No.2278 of 2022	14.03.2025
13	W.A.(MD)No.723 of 2025 State and others v. Correspondent, St. Mary's Higher Secondary School	26.03.2025

5. In the first case listed supra one S.Jeyalakshmi had filed the writ petition and the same was allowed. Aggrieved over the State had preferred W.A.Nos. 213 and 572 of 2016, the Division Bench vide order 24.08.2016 had held as under:

“36. With the above background, let us now refer to the legal principles laid down in this regard.

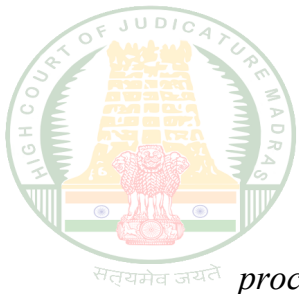


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37. Strong reliance was placed on behalf of the writ petitioners on the decision of the Apex Court in Pramati Educational and Cultural Trust v. Union of India [(2014) 4 MLJ 486]. The relevant portions read as follows:

“45. Under Article 30(1) of the Constitution, all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. Religious and linguistic minorities, therefore, have a special constitutional right to establish and administer educational schools of their choice and this Court has repeatedly held that the State has no power to interfere with the administration of minority institutions and can make only regulatory measures and has no power to force admission of students from amongst non-minority communities, particularly in minority schools, so as to affect the minority character of the institutions. Moreover, in Kesavananda Bharati Sripadagalvaru v. State of Kerala & Anr. (supra) Sikri, CJ., has even gone to the extent of saying that Parliament cannot in exercise of its amending power abrogate the rights of minorities. To quote the observations of Sikri, CJ. in Kesavananda Bharati Sripadagalvaru v. State of Kerala & Anr. (supra):

“178. The above brief summary of the work of the Advisory Committee and the Minorities Sub-committee shows that no one ever contemplated that fundamental rights appertaining to the minorities would be liable to be abrogated by an amendment of the Constitution. The same is true about the

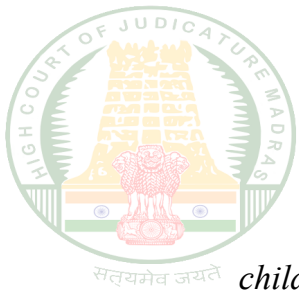


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proceedings in the Constituent Assembly. There is no hint anywhere that abrogation of minorities rights was ever in the contemplation of the important members of the Constituent Assembly. It seems to me that in the context of the British plan, the setting up of Minorities Sub-committee, the Advisory Committee and the proceedings of these Committees, as well as the proceedings in the Constituent Assembly mentioned above, it is impossible to read the expression “Amendment of the Constitution” as empowering Parliament to abrogate the rights of minorities.”

Thus, the power under [Article 21A](#) of the Constitution vesting in the State cannot extend to making any law which will abrogate the right of the minorities to establish and administer schools of their choice.

46. When we look at the 2009 Act, we find that [Section 12\(1\)\(b\)](#) read with [Section 2\(n\) \(iii\)](#) provides that an aided school receiving aid and grants, whole or part, of its expenses from the appropriate Government or the local authority has to provide free and compulsory education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent. Thus, a minority aided school is put under a legal obligation to provide free and compulsory elementary education to children who need not be children of members of the minority community which has established the school. We also find that under [Section 12\(1\)\(c\)](#) read with [Section 2\(n\)\(iv\)](#), an unaided school has to admit into twenty-five per cent of the strength of class I



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children belonging to weaker sections and disadvantaged groups in the neighbourhood. Hence, unaided minority schools will have a legal obligation to admit children belonging to weaker sections and disadvantaged groups in the neighbourhood who need not be children of the members of the minority community which has established the school. While discussing the validity of clause (5) of [Article 15](#) of the Constitution, we have held that members of communities other than the minority community which has established the school cannot be forced upon a minority institution because that may destroy the minority character of the school. **In our view, if the 2009 Act is made applicable to minority schools, aided or unaided, the right of the minorities under [Article 30\(1\)](#) of the Constitution will be abrogated. Therefore, the 2009 Act insofar it is made applicable to minority schools referred in clause (1) of [Article 30](#) of the Constitution is ultra virus the Constitution. We are thus of the view that the majority judgment of this Court in *Society for Unaided Private Schools of Rajasthan v. Union of India & Anr.* (supra) insofar as it holds that the 2009 Act is applicable to aided minority schools is not correct." (emphasis supplied)**

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



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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.

39. In the decision relied upon by the learned senior counsel for the petitioners in *Ashwini Thanappan v. Director of Education* [(2014) 8 SCC 272], the issue that arose for consideration related to the interpretation of Article 27. The matter was referred to the Bench of appropriate strength for further examination, since the learned counsel submitted that the judgment in *Pramati Educational & Cultural Trust* is inconsistent with the judgment of the Constitution Bench in *P.A.Inamdar v. State of Maharashtra* [(2005) 6 SCC 537]. The matter is pending consideration.

40. In view of the above, the contention of the learned Additional Advocate General that the order of the learned single Judge directing the release of salary is not sustainable, in view of the reference of *Ashwini Thanappan* case to the Bench of appropriate strength, cannot be accepted, since the issue in *P.A.Inamdar* is with respect to quota of admission of students in the unaided professional institutions, entrance test and fee structure. Therefore, the outcome of *Ashwini Thanappan* has nothing to do with the case on hand.

59. Insofar as minority institutions are concerned, the contention of the learned senior counsel appearing for the minority Schools is that when *Tamil Nadu Recognised Private Schools (Regulation) Act, 1973* received the assent of the President of India and it is still in force, it cannot be supplanted by an



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Executive Order, namely by G.O.Ms.No.181 dated 15.11.2011. Further, the Apex Court has clearly held in Pramati Educational & Cultural Trust that RTE Act, 2009 is not applicable to the minority institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30(1) of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181 dated 15.11.2011, which was issued pursuant to the directions of NCTE, cannot be made applicable to the minority institutions.

60. In the light of the above, we are of the view that the Government cannot insist upon the minority institution, both aided or unaided, to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that [G.O.Ms.No.181](#), School Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, [G.O.Ms. No.76](#) dated 18.3.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.”

6. As far as the judgment rendered in the case of P.Savarimuthu Maria George Vs. The District Elementary Educational Officer, Virudhunagar District and others filed in W.A.(MD)No.948 of 2018 dated 13.12.2018 it has been held that a Constitution Bench of the Hon'ble Supreme Court of India in Pramati Educational and Cultural Trusts -vs- Union of India [(2014) 8 SCC 1] held that the [Right of](#)



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Children to Free and Compulsory Education Act, 2009, does not apply to aided and unaided minority educational institutions. And also referred to S.Jeyalakshmi's judgment referred supra.

7. As far as the judgment rendered in W.A.(MD)No.791,794,795,796 of 2020 dated 09.09.2020 the Coordinated Division Bench has held as under:

“7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. In Pramati Educational and Cultural Trust and others v. Union of India and others (cited supra), the Honourable Supreme Court of India in paragraph No.46, observed that “In our view, if the 2009 Act is made applicable to minority schools, aided or unaided, the right of the minorities under Article 30(1) of the Constitution will be abrogated. Therefore, the 2009 Act insofar it is made applicable to minority schools referred in clause (1) of Article 30 of the Constitution is ultra vires the Constitution”. The said judgment has also been followed by this Court in various pronouncements.

9. In the light of the above cited legal position, grounds urged on behalf of the appellants lack merits. In the result, all the Writ Appeals are dismissed, confirming the common order dated 26.02.2019....”

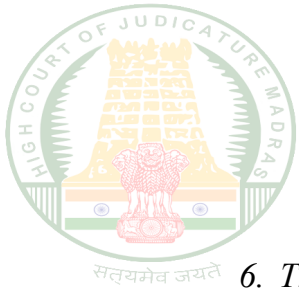


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8. As far as the judgment rendered in W.A.(MD)No.2142 of 2021 filed by ***the State vs. the Correspondent, Hyrathul Jamalia Higher Secondary School*** the Coordinate Bench had referred the aforesaid ***S.Jeyalakshmi's case*** and ***P.Savarimuthi Maria George's case***.

9. As far as W.A.(MD)No.1865 of 2021 the Division Bench had referred to ***Pramati's case*** and has held as under:

“5. The issue as to whether a teacher, who is appointed as a Secondary Grade Teacher or B.T. Assistant in a minority run school without possessing the qualification of TET whether can continue in the school or in other words, for the appointment to the said post in a minor school whether the teacher can be insisted upon to acquire the qualification of TET had already been considered by the Hon'ble Supreme Court in a Constitution Bench decision in Pramati Educational and Cultural Trust & Ors. v. Union of India reported in (2014) 8 SCC 1. Under the said judgment, it has been declared categorically that, in minority run institutions, the teacher to be appointed cannot be insisted upon to hold the qualification of TET.”



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6. *Though the issue subsequently had been referred to a Larger Bench, as stated by the learned counsel appearing for the teacher concerned, as of now, the law holding the field is Pramati Educational and Cultural Trust's case (cited supra). ”*

The aforesaid judgment states that the issue is referred to larger bench and the Division Bench refers to Ashwini Thanappan's case but the same is nothing to do with the issue of qualification of teachers. The aforesaid judgment also refers to the judgment dated 02.06.2023 rendered in W.A.Nos.313, 833, 1891, 2050, 2082, 2617, 2795 of 2022 of 2022 and W.A.Nos.19, 31, 32, 36 of 2023 and W.P.Nos.3364 and 3368 of 2023 batch in the case of the Director of School Education and others v. M.Velayutham and another. Hence the Division Bench held the issue is settled in Pramati's case and in W.A.No.313 of 2022 and therefore held TET is not applicable to minority institutions.



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10. As far as the judgment rendered in W.A.No.313 of 2022 batch (which includes W.A.Nos.313, 833, 1891, 2050, 2082, 2617, 2795 of 2022 of 2022 and W.A.Nos.19, 31, 32, 36 of 2023 and W.P.Nos.3364 and 3368 of 2023 cases), the issue that was raised for consideration is culled out as under:

I. *INTRODUCTION, FACTUAL BACKGROUND AND PLEADINGS*

1. The key issues that arise for determination in these batch of writ appeals and writ petitions are:

(i) whether passing of the Teacher Eligibility Test (TET) is mandatory for promotion to the post of B.T. Assistant/Graduate Teacher, from the cadre of Secondary Grade Teacher (already in service).

(ii) whether non-possession/non-acquisition of a pass in TET by a teacher appointed prior to 29.07.2011 would affect his/her continuance in service and drawal of increment, without seeking for further promotion to the post of BT Assistant/Graduate Teacher.

From the above it is evident that the issue “whether TET is applicable for minority institutions” was not at all an issue raised before the Court. Further the Court also had not discussed the same. However incidentally the Court had held TET is not



applicable to minority based on the judgment of Pramati's case and the relevant portion is extracted hereunder:

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"71. In line with above reasoning, the orders of the learned Judge holding that even those appointed prior to the commencement of the Act must acquire a pass in TET is liable to be set aside. The Secondary Grade Teachers only seeking continuance in service with increments, are fundamentally a different class of persons from those seeking promotion to B.T. Assistant from Secondary Grade Teacher.

**C. W.A. Nos.19, 31, 32, 36 of 2023*

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 issue 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 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



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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.

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



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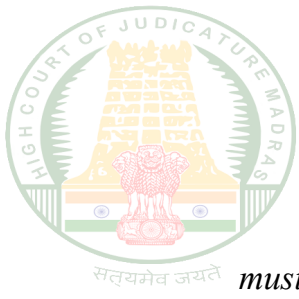
any fresh appointments, whether by direct recruitment in the case of Secondary Grade Teachers, or by either direct recruitment or promotion or transfer in the Graduate Assistants/BT Assistants, a pass in TET is an essential eligibility criteria to be fulfilled.

*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 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. ***The principles laid down in this judgment will not have application to minority schools, both aided and unaided as explained in paragraph no.71.1.***

CONCLUSION

74. For the sake of clarity and ease of reference, the upshot of the above discussion is as under:

(a) Any teacher appointed as Secondary Grade Teacher or Graduate Teacher/BT Assistant prior to 29.07.2011 shall continue in service and also receive increments and incentives, even if they do not possess/acquire a pass in TET. At the same time, for future promotional prospects like promotion from secondary grade teacher to B.T. Assistant as well as for promotion to Headmasters, etc., irrespective of their dates of original appointment, they



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must necessarily possess TET, failing which they will not be eligible for promotion

(b) Any appointment made to the post of Secondary Grade Teacher after 29.07.2011 must necessarily possess TET.

*(c) Any appointment made to Graduate Teacher/BT Assistant, after 29.07.2011, whether by direct recruitment or promotion from the post of Secondary Grade Teacher, or transfer, must necessarily possess TET. ***The principles laid down in this judgment will not have application to minority schools, both aided and unaided as explained in paragraph no.71.1.***

(d) The Special Rules for the Tamil Nadu School Educational Subordinate Service issued in GO (Ms.) No.13 School Education (S.E3(1)) Department dated 30.01.2020 insofar as it prescribes “a pass in Teacher Eligibility Test (TET)” only for direct recruitment for the post of BT Assistant and not for promotion thereto in Annexure-I (referred to in Rule 6) is struck down, thereby meaning that TET is mandatory/essential eligibility criterion for appointment to the post of BT Assistant even by promotion from Secondary Grade Teachers.

(e) The language employed in G.O. (Ms) No. 181 dated 15.11.2011 is to be read and understood to the effect that for continuance in service without promotional prospects, TET is not mandatory.



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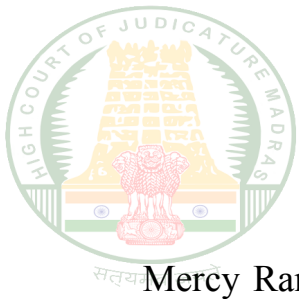
75. *The narration of facts which propelled this case would indicate that the teachers have not been appointed for the last ten years inspite of being qualified with a pass in TET. On the basis of the above findings and observations made, the State Government is directed to conduct TET periodically and make direct recruitment of teachers and promotion from among TET qualified candidates at the earliest.*

76. *With these observations, Writ Petition Nos.3364 and 3368 of 2023 are allowed, Writ Appeal Nos. 313, 833, 1891, 2050, 2082, 2795 of 2022 & Writ Appeal Nos.19, 31, 32, 36 of 2023 are dismissed. WA.No.2617/2022 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.*

****Added as per the clarificatory order of this court dated 14.06.2023"***

As held supra, the judgment never discusses about the prescription of qualification to minorities institution at all. But by following Pramati's case had held the findings in the judgment is not applicable to the minority institutions.

11. As far as the judgment dated 12.04.2024 rendered in W.A.(MD)No. 670 of 2024 in the case of the District Education Officer and others v. Y. Joseph



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Mercy Rani the Division Bench is concerned, the Division Bench had referred and followed the judgment dated 02.06.2023 rendered in W.A.No.313 of 2022 batch and judgment dated 15.06.2023 in W.A.(MD)No.1865 of 2021. Likewise, the judgment dated 21.01.2025 rendered in W.A.(MD)No.72 of 2025 in the case of ***the District Educational Officer and another v. J.Esthermary and another*** has held that the Hon'ble Supreme Court and several coordinated benches had held that TET is not applicable to minority institutions, hence the appeal is dismissed. In W.A.(MD)No. 550, 1692, 1693 of 2025, the Court had not passed any final orders. In W.A.(MD)No. 343 of 2025, W.A.(MD)No. 168 of 2025, W.A.(MD)No.2278 of 2022, W.A.(MD)No.723 of 2025 all followed the judgments referred above.

12. It is evident from the above referred judgments that the Coordinate Division Benches had followed the judgments rendered in ***S.Jeyalakshmi's and Velayutham's case***. In ***S.Jeyalakshmi's case*** the Bench had held that the ***Pramati's case*** the Hon'ble Supreme Court had held "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". And in Velayutham's case also the Bench had



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held that in *Pramati's* case the Hon'ble Supreme Court had held TET is not applicable to minority institutions, hence the findings in Velayutham's case are applicable only to non-minority institutions and not applicable to minority institutions.

13. This Court is of the considered opinion that the Five Judges Bench in *Pramati's case* has not considered "the issue of qualification of TET prescribed to teachers". The issue that was raised in *Pramati's case* is whether the minority schools can be compelled to give 25% admission to downtrodden children, thereby taking away the right to admit minority children of their choice in minority school. The reference stated in the Parmati's case is extracted hereunder:

"This is a reference made by a three-Judge Bench of this Court by order dated 06.09.2010 in Society for Unaided Private Schools of Rajasthan v. Union of India & Anr. [(2012) 6 SCC 102] to a Constitution Bench. As per the aforesaid order dated 06.09.2010, we are called upon to decide on the validity of clause (5) of Article 15 of the Constitution inserted by the Constitution (Ninety-third Amendment) Act, 2005 with effect from 20.01.2006 and on the validity of Article 21A of the Constitution inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002 with effect from 01.04.2010."



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The Article 15(5) of the Constitution is extracted hereunder:

*“Nothing in this article or in sub-clause (g) of clause (1) of [article 19](#) shall prevent the State from making any special provision, by law, **for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.**”*

The Article 21A is

*“21A. Right to education.-The State shall provide **free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.**”.*

From the bare reading of Article 15(5) and 21A it is evident that TET qualification of teachers was not the subject in these Articles. Article 21A speaks of free education to children and reservation of 25% to downtrodden children. To be specific it is only granting 25% of reservation to children belonging to educationally backward classes, Scheduled Castes and Scheduled Tribes.



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14. In order to achieve the above object, the 2009 Act grants reservation to backward classes, Scheduled Castes and Scheduled Tribes. The provisions touching the above object and the minority schools are extracted hereunder. The Section 2(n) of RTE Act, 2009 is extracted hereunder:

"Section 2(n) "school" means any recognised school imparting elementary education and includes—

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;"

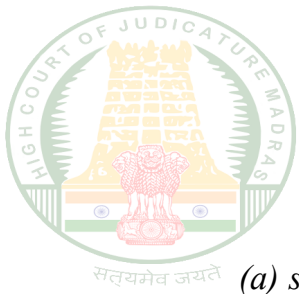
The relevant portion of the section 12(1)(b) and 12(1)(c) of RTE Act, 2009 is extracted hereunder:

"CHAPTER IV

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

12. Extent of school's responsibility for free and compulsory education.—(1)

For the purposes of this Act, a school,—



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(a) specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;

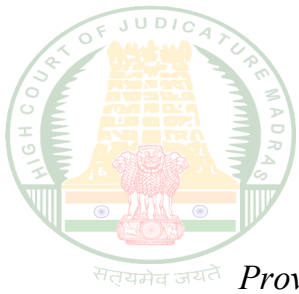
(b) specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five percent.;

(c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent. of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:

Provided that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2:

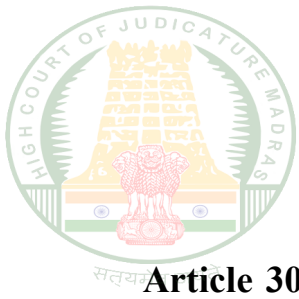


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Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.

(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be."

15. The combined reading of Article 15(5) and Article 21A read with Section 12(1)(b), Section 2(n)(ii) and Section 12(1)(c) read with Section 2(n)(iv) would clearly indicate that the private **aided** both minority and non-minority and private **unaided** both minority and non-minority approached the Courts that the 25% reservation provided under Section 12(1)(b) and Section 12(1)(c) is affecting their rights to admit the students in their schools. In Pramati's case the Five Judges Bench had held that "**private aided non-minority and private unaided non-minority**" are bound by the Section 12(1)(b) read with Section 2(n)(ii) and Section 12(1)(c) read with Section 2(n)(iv). However, as far as "**private aided minority and private unaided minority**" the provisions Section 12(1)(b) read with Section 2(n)(ii) and Section 12(1)(c) read with Section 2(n)(iv) are affecting their rights guaranteed under

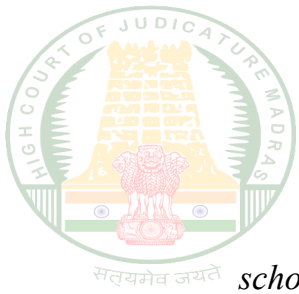


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Article 30. In other words, the Five Judges Bench in Pramati's case have held that Articles 15(5) and 21A which insists to admit downtrodden children will definitely affect the rights of the minority institutions guaranteed under Article 30. Also held the 25% of reservation granted under section 12(1)(b) and 12(1)(c) is against the rights guaranteed under Article 30.

16. However, the minority institutions are relying on paragraph 55 and 56 of Pramati's judgment and contended that the judgment held that 2009 Act insofar as it applies to minority schools both aided or unaided, covered under clause (1) of [Article 30](#) is ultra vires the Constitution. The relevant portion is extracted hereunder:

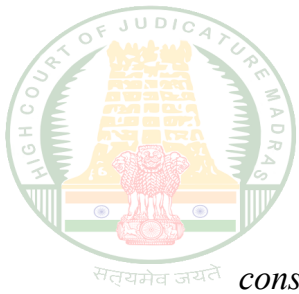
“55. When we look at the 2009 Act, we find that Section 12(1)(b) read with [Section 2\(n\) \(iii\)](#) provides that an aided school receiving aid and grants, whole or part, of its expenses from the appropriate Government or the local authority has to provide free and compulsory education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent. Thus, a minority aided school is put under a legal obligation to provide free and compulsory elementary education to children who need not be children of members of the minority community which has established the



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school. We also find that under Section 12(1)(c) read with [Section 2\(n\)\(iv\)](#), an unaided school has to admit into twenty-five per cent of the strength of class I children belonging to weaker sections and disadvantaged groups in the neighbourhood. Hence, unaided minority schools will have a legal obligation to admit children belonging to weaker sections and disadvantaged groups in the neighbourhood who need not be children of the members of the minority community which has established the school. While discussing the validity of clause (5) of [Article 15](#) of the Constitution, we have held that members of communities other than the minority community which has established the school cannot be forced upon a minority institution because that may destroy the minority character of the school. **In our view, if the 2009 Act is made applicable to minority schools, aided or unaided, the right of the minorities under [Article 30\(1\)](#) of the Constitution will be abrogated. Therefore, the 2009 Act insofar it is made applicable to minority schools referred in clause (1) of [Article 30](#) of the Constitution is ultra vires the Constitution. We are thus of the view that the majority judgment of this Court in *Society for Unaided Private Schools of Rajasthan v. Union of India & Anr.* (supra) insofar as it holds that the 2009 Act is applicable to aided minority schools is not correct.**

56. In the result, we hold that the [Constitution \(Ninety-third Amendment\) Act, 2005](#) inserting clause (5) of [Article 15](#) of the [Constitution and the Constitution \(Eighty-Sixth Amendment\) Act, 2002](#) inserting [Article 21A](#) of the Constitution do not alter the basic structure or framework of the Constitution and are

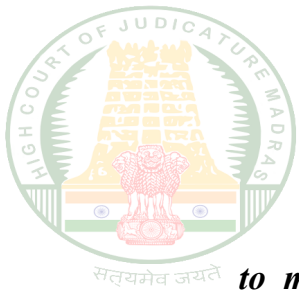


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constitutionally valid. We also hold that the 2009 Act is not ultra vires [Article 19\(1\)\(g\)](#) of the Constitution. **We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause (1) of [Article 30](#) of the Constitution is ultra vires the Constitution.** Accordingly, Writ Petition (C) No.1081 of 2013 filed on behalf of Muslim Minority Schools Managers' Association is allowed and Writ Petition (C) Nos.416 of 2012, 152 of 2013, 60 of 2014, 95 of 2014, 106 of 2014, 128 of 2014, 144 of 2014, 145 of 2014, 160 of 2014 and 136 of 2014 filed on behalf of non-minority private unaided educational institutions are dismissed. All I.As. stand disposed of. The parties, however, shall bear their own costs."

17. At this juncture, it is relevant to peruse the arguments put forth by the Learned Senior Counsels appearing for the minorities institutions.

"Mr. Nariman next submitted that clause (5) of [Article 15](#) of the Constitution is a clear violation of [Article 19\(1\)\(g\)](#) of the Constitution, inasmuch as it compels private educational institutions **to give up a share of the available seats to the candidates chosen by the State and such appropriation of seats would not be a regulatory measure** and not a reasonable restriction on the right under [Article 19\(1\)\(g\)](#) of the Constitution within the meaning of [Article 19\(6\)](#) of the Constitution. He referred to the observations of this Court in [P.A. Inamdar & Ors. v. State of Maharashtra & Ors.](#) [(2005) 6 SCC 537] in paragraph 125 at page 601 **that private educational institutions, which intend to provide better professional education, cannot be forced by the State**

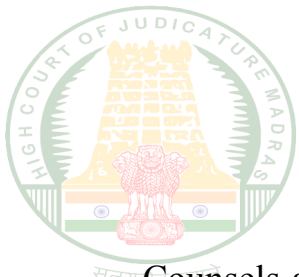


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*to make admissions available on the basis of reservation policy to less meritorious candidates and that unaided institutions, as they are not deriving any aid from State funds, should have their own admissions following a fair, transparent and non-exploitative method based on merit. He vehemently submitted that when **reservation in favour of the Scheduled Castes and the Scheduled Tribes and other socially and educationally backward classes of citizens is made in admission to private educational institutions and unaided private educational institutions by the State, such private educational institutions will no longer be institutions of excellence.** He submitted that in [T.M.A. Pai Foundation](#) (supra), the majority of the Judges have held that private unaided educational institutions impart education and that the State cannot take away the choice in matters of selection of students for admission."*

Almost all the counsels opposed the reservation of 25% seats on the above angle. It is interesting to note that the affidavit filed along with the writ petition states that the school was started to provide best education to the children of the surrounding Rural Areas hailing from backward community, but it is unknown why the school is opposing when 25% was granted to such backward community.

18. Be that as it may, when the minority institutions approached the Court only for 25% admission for downtrodden children, the Learned Senior



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Counsels also address on the 25% issue, the Courts also considered only 25% issue, then by relying on the single sentence in Pramati's case wherein it is held that **“the 2009 Act insofar it is made applicable to minority schools the rights of minorities under Article 30 is affected”**, is it right to argue that qualification cannot be prescribed to teachers working in minority institutions, this Court is of the considered opinion that such an argument cannot be accepted. Since in entire *Pramati's case*, the issue of prescription of qualification under Section 23 of RTE Act, 2009 was not raised at all, then the argument that in Pramati's case it is held 2009 act itself is not applicable to minority institutions is erroneous argument. The paragraph 55 and 56 of Pramati's case ought to be read along with the reference raised in Pramati's case. The single sentence stated above cannot taken and come to conclusion. The entire judgment ought to be taken. Especially the reference ought to be taken into account. When the issue “whether the prescription of qualification under Section 23 of RTE Act, 2009 would take away the right of minority institutions guaranteed under Article 30” was not raised, whether it is right to hold that Pramati's case had held TET is not applicable to minority. This Court is of the considered opinion that the answer is “No”. The judgment would become precedent



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only when the issue is raised, discussed, considered and answered. If the issue is not raised, the issue is not discussed, the issue is not considered and not rendered any finding at all, the judgment is absolutely silent on this issue, then it has to construe that the judgment is not precedent regarding **“the issue of TET”** based on the **rule of 'sub-silentio'**. The Hon'ble Supreme Court in *Arnit Das Vs. State of Bihar* reported in **2000-2-LW(Crl)801** has held that any decision which is not expressed, not accompanied by any reasons and not proceeded on the conscious consideration of the issue, it cannot be deemed to be the law declared to have a binding effect as it is contemplated by Article 141 and the relevant portion is extracted hereunder:

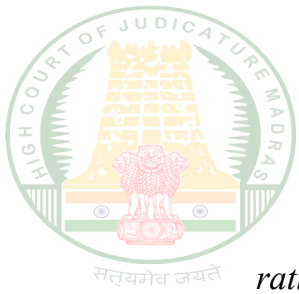
“20. A decision not expressed, not accompanied by reasons and not proceeding on conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not ratio decidendi. This is the rule of sub-silentio, in the technical sense when a particular point of law was not consciously determined. (See State of U.P. v. Synthetics and Chemicals Ltd. MANU/SC/0616/1991 : 1993(41)ECC326).”

19. In the State of UP and others Vs. Synthetics and Chemicals Limited and others reported in **1991 (4) SCC 139** wherein it is held as under:



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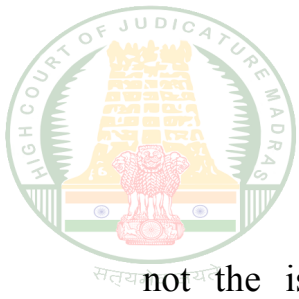
“47. Does this principle extend and apply to a conclusion of law, which was neither raised nor preceded by any consideration. In other words can such conclusions be considered as declaration of law? Here again the English Courts and jurists have carved out an exception to the Rule of precedents. It has been explained as Rule of sub-silentio. A decision passed sub-silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the Court or present to its mind' (Salmond 12th Edition). In Lancaster Motor Company (London) Ltd. v. Bremith Ltd., [1941] IKB 675 the Court did not feel bound by earlier decision as it was rendered 'without any argument, without reference to the crucial words of the Rule and without any citation of the authority'. It was approved by this Court in Municipal Corporation of Delhi v. Gurnam Kaur, MANU/SC/0323/1988 : 1988:INSC:267 : [1989] 1 SCC 101. The Bench held that, 'precedents sub-silentio and without argument are of no moment'. The Courts thus have taken recourse to this principle for relieving from injustice perpetrated by unjust precedents. A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not ratio decidendi. In Shama Rao v. State of Pondicherry, AIR 1967 SC 1680 it was observed, 'it is trite to say that a decision is binding not because of its conclusions but in regard to its



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ratio and the principles, laid down therein'. Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law."

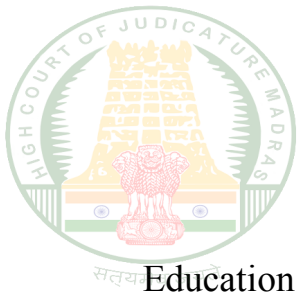
When the issue was not framed in Pramati's case regarding the qualification of teachers, the issue was not at all discussed by the Court and the judgment is absolutely silent regarding the issue of qualification prescribed under section 23, then the Pramati's case judgment regarding the issue of qualification cannot be considered as binding precedent based on the rule of '**sub-silentio**'. Hence the single sentence (i.e. the 2009 Act insofar it is made applicable to minority schools the rights of minorities under Article 30 is affected) ought to be construed that the same is applicable only for the issue raised. Hence, the Pramati's case is binding precedent regarding the issue of admission of 25% downtrodden children in the minority institution. Therefore, this Court is of the considered opinion that in Pramati's case there was no issue raised regarding prescription of qualification to teachers, the section 23 of RTE Act, 2009 which is the concerned provision for qualification was



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not the issue raised, further Article 15(5) and Article 21A is not regarding qualification of teachers, therefore, by applying the rule sub-silentio, it can be safely held that the judgment in *Pramati's case* has not spoken regarding qualifications of teachers.

20. The earlier Division Bench judgments of this High Court had relied on the single sentence stated in paragraph 55 and 56 and had come to the conclusion that TET is not applicable to minorities. But had not taken the entire judgment, especially the reference, the discussion and the finding for the reference. In such circumstances, the earlier Division Bench judgments of this High Court necessarily ought to be declared as per incuriam, when *Pramati's case* has never ever discussed regarding the applicability of qualification to the minority institutions especially applicability of TET to the minority institutions. Therefore, the judgments passed by the earlier Division Benches of this High Court and the judgments passed by this Court in four writ appeals cannot be considered as binding precedent and all the judgments would become per incuriam. The judgment in *Pramati's case* is absolutely silent regarding the applicability of other provisions of Right to Free



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Education Act, 2009, therefore, by following the “Rule of Sub-Silentio”, the paragraph 55 and 56 of *Pramati's case* ought to be taken as binding precedent only for Article 15(5) and Article 21A read with Section 12 (1) (b) read with Section 2 (n) (ii) and Section 12 (1) (c) read with Section 2 (n) (iv). Consequently, the paragraphs 55 and 56 of the judgment ought to be taken by applying the rule of “sub silentio” that in *Pramati's case* had not dealt with the prescription of qualification of TET issue at all and also other provisions of the 2009 Act.

21. The contention of the review applicant that this Bench has already passed four judgments holding that TET is not applicable to minority institutions by following the earlier Division Bench orders, hence this Court cannot deviate from its own earlier orders. Further if the Court is considering to deviate, then the issue ought to be referred to larger bench. This Court is of the considered opinion that the earlier Division Bench judgments including the judgments passed by this Court had become per incuriam as discussed supra, in such circumstances, reference to larger bench is not necessary.



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22. Further this Court is of the considered opinion that while rendering the earlier orders, it was not brought to the knowledge that ***Pramati's case*** had dealt only section 12(1)(b) read with section 2(n)(ii) and section 12(1)(c) read with section 2(n)(iv) and not with other provisions of the RTE Act, 2009. The power to prescribe qualification to teachers is under section 23 and the said section 23 was never ever discussed in *Pramati's case*. When this fact was brought to the knowledge the Court, the Court had taken the correct view in W.A.(MD)No.429 of 2025, therefore there is no error apparent on the face of the record.

23. Having held so, now the question arises whether the respondents can be compelled to comply with the earlier judgements and grant approval. This Court is of the considered opinion that the respondents cannot be compelled to grant approval by relying on the per incuriam judgments/orders.

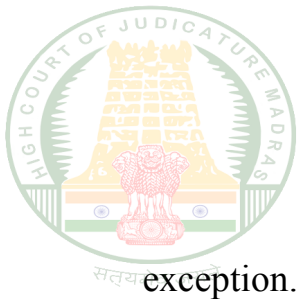
24. For the reasons stated supra, this Court is of the considered opinion that the judgment in ***Pramati's case*** is binding precedent as far as Article 15(5) and Article 21A read with Section 12 (1) (b) read with Section 2 (n) (ii) and Section 12



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(1)(c) read with Section 2 (n) (iv). As far as the issue of applicability of qualification of TET to minority institutions based on the rule of sub-silentio, ***Pramati's case*** did not hold that TET is not applicable to minority institutions. Therefore, the earlier judgments which had held TET is not applicable to minorities by following Pramati's case are per incuriam and they are not binding precedents. Therefore, this Court is of the considered opinion that the prescription of qualification of TET is applicable to minority institutions also.

25. At this juncture, the Learned Counsel appearing for the respondent writ petitioner submitted that the individuals were appointed based on the earlier judgments and at this point of time their appointments may not be disturbed since the same would affect their livelihood. It is pertinent to state that after the new Tamil Nadu Private Schools Regulation Act, 2018 and the Tamil Nadu Private Schools Regulation Rules, 2023, the TET is necessary for all schools including minority schools. The Rules, 2023 was implement vide G.O. Ms. No. 14, School Education (MS) dated 13.01.2023. Therefore, any appointment after the said Act and Rules, i.e. on or after 13.01.2023, TET is mandatory qualification and there cannot be any



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exception. It is seen that the appointment of teachers from 2010 to 2023, while implementing the TET in non-minority schools several persons were affected. Now if implemented in minority schools few more would be affected. In order to save their cases who are working both minority and non-minority schools without TET qualifications, then the State Government and Central Government ought to move the Parliament for appropriate relief so that all persons can get the relief. Under Article 14 there cannot be any discrimination for prescribing educational qualification, therefore relief ought to be granted to all the teaching community, whether working in minority or non-minority schools. The Government may consider to get relief to teachers who were working for the past ten years. Also, those who are on the verge of retirement or who had retired. The relief sought for by the petitioner can be granted under Article 142 but the same cannot be granted by High Courts and the power is with the Supreme Court alone.

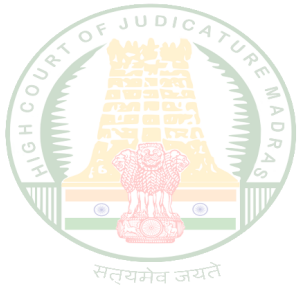
26. It is pertinent to record that only few are passing the TET examinations, hence the Government may consider to establish “TET Coaching Centres”.



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27. The Court hopes that the concern expressed by the individuals and the schools would be resolved by the Governments by taking appropriate steps so that the entire teaching community, both minorities and non-minorities schools is benefitted.

28. Except for the issue of law of precedents, the other grounds raised by the review applicant were already raised in writ appeal and the same had been considered by this Court elaborately. Hence there is no error apparent on the face of the record regarding other issues are concerned. The review applicant under the guise of review cannot reagitate and re-canvass the grounds raised in writ appeal and convert the review application as an appeal. Since as far as other grounds are concerned, there is no error apparent on the face of record, this Court is not inclined to entertain the review application and the same is liable to be dismissed and accordingly dismissed. As far as the law of precedents are concerned the same is answered accordingly. No costs. Consequently, connected miscellaneous petition is closed.



REV. APLC.(MD) No.67 of 2025

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29.In light of the difference of opinion that has arisen on the legal issue,
place the matter before the Hon'ble Chief Justice for appropriate orders.

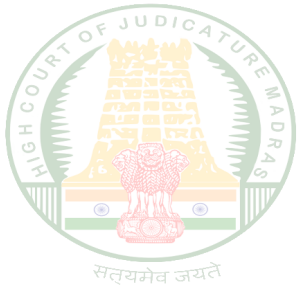
[J.N.B., J.] [S.S.Y., J.]
24.06.2025

Index: Yes / No

Tmg

To

- 1.The Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Madurai District, Madurai.
- 4.The District Educational Officer,
Elementary Education,
Melur, Madurai District.



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S.SRIMATHY, J.

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