



W.P(MD)No.15806 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.15806 of 2025
and
WMP (MD) No.11973 of 2025

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... Petitioner(s)

vs.

1. The District Educational Officer,
Officer of the District Educational Officer,
Valliyur,
Tirunelveli District.

2. The Block Educational Officer,
Office of the Block Educational Officer,
Rathapuram Taluk,
Tirunelveli District.

3. The Correspondent,
Tdt Primary and Middle School,
Madathuachambadu Village,
Tisiyanvilai Town Panchayat,
Tisiyanvilai Taluk,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, calling for the



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records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka. No.621-Aa2-2020 dated 16.11.2020 and quash the same and direct the respondents to approve the appointment of the petitioner as Secondary Grade (SG) with effect from 01.07.2019 with salary and all other consequential benefits.

For Petitioner : Mr. S.Atham Ali
For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1 and R2

ORDER

The present writ petition has been filed challenging the impugned proceedings dated 16.11.2020, issued by the second respondent, which mandate the qualification of TET as a prerequisite for granting approval to the petitioner's proposal.

2. The case of the petitioner is that she obtained her M.A.(English) in the year 1996 and completed Diploma in Teach Education in the year 2007. Subsequently, a Secondary Grade (S.G.) post became vacant due to the transfer of Mr.Y.Edward, Secondary Grade Teacher in the third respondent School. Against this vacancy, the petitioner was appointed as a Secondary Grade Teacher on 02.07.2019. Thereafter, considering that the third respondent School is a minority



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institution with the right to administer and appoint staff under Article 30(1) of the Constitution of India, the Management in accordance with staff fixation norms, forwarded a proposal to the respondents seeking approval of the petitioner's appointment. However, the second respondent, by the impugned order dated 16.11.2020, rejected the proposal on the ground that the petitioner has not possessed the Teacher Eligibility Test (TET) pass certificate. Aggrieved by the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner would submit that the petitioner's proposal was returned mainly on two grounds that the petitioner does not possess TET qualification certificate and secondly, that surplus teachers are available under the Corporate Management and the vacancy was not filled through redeployment. It is submitted that the third respondent school is a minority institution. As held in ***Pramati Educational and Cultural Trust v. Union of India***, reported in ***(2014) 8 SCC 1***, requirement of TET qualification cannot be enforced upon the minority institution for the appointment of Teachers in the minority school. Further, there is no material evidence to establish the availability of surplus teachers under the Corporate Management. Even the



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present proposal was forwarded to fill the vacancy that arose due to the transfer of Mr.Y.Edward, Secondary School Teacher. Accordingly, he prays to allow the writ petition.

4. The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 has submitted a counter-affidavit dated 22.08.2025. He would submit that the petitioner seeks to approve the appointment with effect from 01.07.2019. The respondent school is eligible for one Headmaster, one B.T.Assistant (Tamil), three Secondary Grade Teachers, totally 5 teachers as on 2024 – 2025. The third respondent appointed two persons in the same post, namely, the writ petitioner herein and Dulcy Graseline. The said Dulcy Graseline filed another writ petition in W.P.(MD) No.18690 of 2025 seeking approval of her appointment, which is also pending before this Court. Insofar as the mandatory provision of TET qualification, the third respondent school is a minority institution and receiving Government aid and therefore, the requirement of passing the Teacher Eligibility Test (TET) is applicable. It is necessary to extract the relevant portions of the counter-affidavit filed by the District Educational Officer (Elementary), dated 22.08.2025 to understand the grounds on which the



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proposal forwarded by the school management was rejected:

“4....The 3rd respondent school eligible for one Headmaster, one B.T. Assistant (Tamil), three Secondary Grade Teacher totally 5 teachers as on 2024 – 2025. The 3rd respondent appointed two persons in the same post one is writ petitioner another person is Dulcy Graseline. The said Dulcy Graseline filed writ petition before this Honourable Court in W.P. (MD) No. 18690 of 2025 interalia praying to approve the appointment of writ petitioner which is pending before this Honourable Court.

5. I respectfully submit that a Teacher is eligible to be appointed only if the teacher has passed in "Teachers Eligibility Test" i.e. TET. This is the qualification prescribed in the Right of Children to Free and Compulsory Act, 2009 (RTE). However several judgments had held that TET is not applicable to minority institution, since it has been held in Paramati case that RTE Act is not applicable to minority institution. However in Paramati case, the reference is made to see 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



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WEB COPY Constitution (Eighty-Sixth Amendment) Act, 2002 with effect from 01.04.2010. The issue was that whether the inserting clause (5) in Article 15 and 21A is applicable to minority institutions. This amendment read with RTE Act has directed the school to admit 25% children belonging to weaker sections and disadvantaged groups in the neighbourhood and whether such direction shall be given to minority institutions. The Honourable Court has held that such directions cannot be issued since it alters basic structure of constitution. The Honourable Supreme Court has not considered the issue whether the TET is applicable for minority institutions. In such circumstances the Honourable Court ought to have held that TET is applicable to minority institutions. Under RTE Act there is no specific provisions for exemption from TET for minority institution.

7. I respectfully submit that the argument of TET is not applicable to minority institutions is accepted, then there would be clear discrimination arises amongst the teachers. On one hand the teachers in non-minority institutions are facing a situation to lose job without TET, on the other hand the teachers in minority institutions are claiming salary, incentive increments and other service benefits without TET. The



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8.I respectfully submit that the recent Division Bench of this Honourable High Court in W.A. (MD) No. 1121 of 2022 dated 20.11.2023 the relevant portion is extracted hereunder with regard to issue of TET is mandatory and the Government has power to fix the education qualification of teacher those who appointed in minority or non-minority.

"32. Right to administer by the minority would not exempt the power of the State from regulating the educational qualifications, salary and other service conditions for the teaching and non-teaching staff in order to maintain uniform standards in the matter of education. In this context, Section 3 of the Act provides power of the Government to regulate the school education. Accordingly, the Government may regulate different stage of education and courses of instruction in private schools. In T.M.A.Pai Foundation's case the Eleven Judges Bench held that regulations can be framed governing the service conditions for teaching and other staff, for whom aid is provided by the State without interfering over all administrative control of management. When the Eleven Judges bench has been distinguished the power of State to enact Act and Rules governing service conditions for teaching and other staff, including qualifications, there is no impediment for the State to prescribe Teachers Eligibility Test as a requisite qualification for appointment to teaching posts, dehors the provisions of the Right of Children to Free and Compulsory



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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 and perused the materials available on record.

6. The facts in the present writ petition are not in dispute. It is admitted that the petitioner’s proposal was rejected primarily on two grounds: firstly, the petitioner does not possess the TET qualification certificate; and secondly, surplus teachers are available under the Corporate Management and the vacancy in question was not filled through redeployment. It is also an undisputed fact that one Dulcy Graseline has filed a separate writ petition in W.P.(MD) No. 18690 of 2025, seeking approval of her appointment, which is currently pending before this Court. Furthermore, the petitioner has failed to establish before this Court that there is no surplus teacher available under the Corporate Management of the third respondent school in support of the approval as such sought for. Moreover, once the third respondent institution receives grant-in-aid from the Government, it is bound by the conditions imposed by the State Government. The question of whether the requirement of a TET qualification is mandatory for



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minority institutions is currently pending before the Hon'ble Supreme Court.

Until the issue is resolved, no appointment can be made without the TET qualification. Therefore, the relief sought in this writ petition cannot be granted.

7. Accordingly, the writ petition stands dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law after the outcome of the Special Leave Petition pending before the Apex Court. No costs. Consequently, the miscellaneous petition is closed.

28.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
PKN



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M.DHANDAPANI,J.

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**ORDER MADE IN
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