



W.P.(MD).No.25120 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 13/10/2025

Pronounced on : 28/11/2025

CORAM :

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

W.P.(MD).No.25120 of 2025 and
W.M.P.(MD).No.19709 of 2025

D.Esther Sukirthabai

...Petitioner

-Vs-

1. The Director of Elementary School Education
DPI Compound
College Road
Chennai.

2. The Chief Educational Officer
Thirunelveli District
Thirunelveli.

3. The District Educational Officer(Elementary)
Thirunelveli District
Thirunelveli.

4. The Block Educational Officer
Tirunelveli City Range
Tirunelveli District.

5. The Correspondent
STC Branch Upper Clapton Middle School
Tirunelveli Town,
Tirunelveli District.

...Respondents



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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 pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.3679/B5/2023 dated 04.07.2025 and quash the same is illegal and consequently direct the respondents to relive the petitioner from the post of BT Assistant at 5th respondent school and disburse arrears of Salary along with terminal benefits forthwith w.e.f 04.06.2019 and pass such other or further orders as this Honble Court may deem fit and proper in the circumstances of this case and thus render justice..

For petitioner : M/s.S.Chella Pandian

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order passed by the 3rd respondent in Na.Ka.No.3679/B5/2023 dated 04.07.2025 and seeking a consequential direction to the respondents to relieve the petitioner from the post of BT Assistant at 5th respondent school and disburse the arrears of salary along with terminal benefits forthwith w.e.f 04.06.2019.



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2. The learned Counsel for the petitioner would submit that the petitioner had been appointed as B.T. Assistant (History) on 03.06.2019 in the fifth respondent institution. The proposal submitted by the fifth respondent institution was pending, and hence, the management had filed a writ petition in W.P.(MD).No.22841 of 2016, seeking direction to the respondents therein to approve the appointment which was allowed by the learned Single Judge. As the order was not implemented, a contempt petition was also filed and in compliance with the orders in the contempt proceedings, approval was granted.

3. He would further submit that the department had also initiated an intra Court Appeal against the order of the learned single judge in W.A. (MD).No.2621 of 2024. He would submit that the issue of Joint/Corporate Management surplus was a contention that was sought to be implemented by a Division Bench of this Court in WA.(MD).No.76 of 2019 etc., batch cases in its order dated 31.03.2021. Thereafter, a Division Bench in a further intra court appeal in W.A.(MD).No.1557 of 2023, had held that the judgment made in WA(MD).No.76 of 2019 etc., batch can only be held to be prospective and the same cannot be applied to the cases where



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appointments have been made prior to the date of the judgment. However, in the intra Court appeal preferred by the department, a contrary view had been taken by another Bench in its order dated 30.04.2025, holding that the said judgment would have to be applied retrospectively. He would further submit that the subsequent Bench, had not taken into consideration the reasoning attributed by the earlier Division Bench in holding the judgment in W.A.(MD).No.76 of 2019 etc., batch to be prospective. He would further contend that the reliance placed upon the subsequent Division Bench in its order dated 30.04.2025, was upon a circular that had been issued in the year 2010, which is not supported by the Act of the Tamil Nadu Private Schools (Regulation) Rules 2023, governing the private schools. Therefore, the subsequent Division Bench judgment cannot be said to be a good law.

4. As regards the qualification of TET, he would submit that the Government had taken a policy decision to approve the appointments of teachers who have not qualified with TET, if such appointments have been made before 13.01.2023. But, however, the said policy decision is subject to the result of the decision to be rendered by the Larger Bench of the Hon'ble Apex Court. Hence, he would submit that the impugned order is



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passed without appreciating these facts and therefore he seeks indulgence of this court.

5. Countering his argument, the learned Additional Government Pleader would vehemently contend that when the direction that had been issued by the Govt., Secretary had been set aside by the Division Bench, it is axiomatic that the earlier approval granted to the petitioner on the strength of the single judge order would have to be recalled and under the impugned order the same had been only done. Hence there can be no infirmity in the order impugned herein. He would further contend that the subsequent Division Bench judgment had held that the application of the judgement of Division Bench in W.A.(MD).No.76 of 2019 etc., batch is to be retrospective for the reasons indicated therein. He would further submit that when a subsequent Division Bench has taken a different view, therefore, the judgement of the subsequent Division Bench would prevail. When there is a Corporate Management Surplus in the schools of which the 5th respondent school is part of, without deploying the said teachers there can be no approval given to the appointment of the petitioner. Therefore, he prays this Court to dismiss the writ petition.



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

7. The petitioner's claim of approval was granted pursuant to the directions issued by the learned single judge of this Court and had been revoked under the impugned orders in view of the fact that the intra Court appeal preferred against the order of the learned single judge had come to be allowed. It is to be noted that the Division Bench in the intra Court appeal had set aside the orders passed by the learned single Judge and had remitted the matter back to the Department to consider the same on merits. Unfortunately, without reconsidering the case of the petitioner, the impugned order had been passed, canceling the order of approval granted earlier. Be that as it may, further reasons have also been assigned in the impugned order indicating corporate surplus in the Joint/Corporate Management of which the 5th respondent school is a part and also that the petitioner does not possess TET.

8. As rightly pointed out by the learned Counsel for the petitioner, the Government itself has taken a policy decision to approve the appointment of



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the teachers without possessing TET qualification, if such appointments are made on or before 13.01.2023. In the present case, the petitioner was appointed on 03.06.2019, and therefore, the petitioner would be benefited by the policy decision taken by the Government.

9. As regards the applicability of the judgement in WA.(MD).No.76 of 2019 etc., batch as to whether it is to be applied prospectively or retrospectively, admittedly, there are divergent views in two Division Bench judgments. This Court had the occasion to consider both the judgments and it had held that the judgement in W.A.(MD).No.76 of 2019 could only be prospective for the reasons indicated therein. This Court had also specifically held that the judgment of the subsequent Division Bench, which held that it would operate retrospectively, is not good law. Hence, the other reasons that is sought to be driven against the petitioner by the respondent would also have to fail.

10. In such view of the matter, the writ petition stands allowed with the following directions:

“a) The respondents shall grant in-principle approval of the proposal sent by the 5th respondent for the appointment of the petitioner as BT Assistant (History)



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b) Such approval shall be subject to the orders to be passed by the

Hon'ble Apex Court.

c) On grant of such approval, the petitioner would be entitled for the sanctioned salary from the date of this order and if the qualification is held into favour of the petitioner by the Hon'ble Apex Court, then the approval should revert back to the date of appointment of the petitioner as BT Assistant teacher and the arrears of salary from the date of appointment till the date of this order shall be paid by the respondents, within a period of four (4) weeks of the order passed by the Hon'ble Apex Court.”

11. With the above directions, the writ petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

28 /11/2025

Index : Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes/No
gvn



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K.KUMARESH BABU.J.

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Pre-delivery order made in
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