



W.P.(MD).No.25996 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.25996 of 2024

and

W.M.P(MD) No.22047 of 2024

Josephine Shanthi,
St.Joseph Girls Higher Secondary School,
Sathankulam,
Thoothukudi District.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Department of School Education,
Fort St.George, Chennai – 9.
2. The Director of School Education,
DPI Campus,
College Road, Chennai – 6.
3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Thoothukudi District.
4. The District Educational Officer (Secondary)
The Office of the District Educational Officer,
Thiruchandur,
Tuticorin District.



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5. The Correspondent,
St.Joseph Girls Higher Secondary School,
Sathankulam,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 13.09.2024, in O.Mu.No.2743/AA1/2024, on the file of the fourth respondent and quash the same in respect of the petitioner, directing the respondents to approve the appointment of the petitioner Mrs.P.Josephine Shanthi, working as B.T.Assistant (History), in St.Joseph Girls Higher Secondary School Sattankulam, Thoothukudi District, w.e.f 04.06.2018, with all service benefits.

For Petitioner : Fr.S.Savarimuthu
For M/s.Father Xavier Associates

For R1 to R4 : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a B.T.Assistant appointed in the fifth respondent School, challenging the order passed by the fourth respondent on 13.09.2024, wherein, the proposal forwarded by the Management for approving her appointment has been rejected.



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2. A perusal of the impugned order reveals that the proposal forwarded by the Management seeking approval of the appointment of the writ petitioner as B.T.Assistant (History) w.e.f. 04.06.2018 has been rejected citing the following reasons:

- a. The Management has not enclosed no surplus Certificate;
- b. The Management has not stated whether Rule 15 (4) of the Tamil Nadu Recognized Private School Regulation Rules 1974 has been followed or not; and
- c. The petitioner has not passed TET examination.

Challenging the above said impugned order, the present writ petition has been filed.

3. According to the learned counsel appearing for the writ petitioner, the fifth respondent institution being a minority institution, the question of following Rule 15(4) of the above said Rules or pass in TET examination is not mandatory. As far as the surplus teachers are concerned, the certificate has already been enclosed along with the proposals by the Management. In such



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circumstances, he prays for quashing the impugned order and to approve her appointment as B.T.Assistant.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 4 herein had contended that the fifth respondent Institution is under corporate management. It is for them to establish that there are no surplus teachers within the Corporate Management in the academic year, in which the petitioner was appointed. He further contended that the petitioner having not pass in TET examination would not be entitled to any approval from the authorities.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. As far as the plea of following Rule 15 (4) of Tamil Nadu Recognized Private School Regulation Rules, 1974, is concerned, the Hon'ble Division Bench of our High Court in judgement reported in **2007 (4) L.W. 617 (Eka Ratchagar Sabai Higher Secondary School, represented by its Correspondent and another Vs. K.Sumathi and another)** has held that the



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said Rule is not applicable to a minority institutions.

7. As far as the plea relating to passing of TET examination is concerned, the Hon'ble Division Bench of our High Court in paragraph No. 74(c) of the judgment reported in **2023 (3) LW 112 (The Director of School Education, D.P.I. Campus, College Road, Chennai -06 and two others Vs. Velayutham and another)** has categorically held that pass in TET examination is not mandatory for being appointed as a teacher in a Minority Institution.

8. As far as the plea relating to surplus teachers in the Corporate Management is concerned, it is for the Management to establish before the concerned authorities that there are no surplus teachers within the Corporate Management in the academic year by furnishing the relevant records.

9. In view of the above said deliberations, this Court is inclined to pass the following orders:

- a. The order impugned in the writ petition is set aside and the matter is remitted back to the file of



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the fourth respondent;

b. The fourth respondent is directed to consider the proposal submitted by the Management without insisting upon following Rule 15(4) of Tamil Nadu Recognized Private School Regulation Rules, 1974, or passing of TET examination;

c. The Management is directed to furnish all the records relating to the fact that there are no surplus teachers in the Corporate Management in concerned academic year in the concerned subject; and

d. In case, if the fourth respondent finds that there are no surplus teachers, he shall proceed to forward the files to the third respondent within a period of eight weeks from the date of submission of the records from the School Management.



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10. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

23.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR,J.

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