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W.P.No.12049 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2026

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 12049 of 2025

P.Amudha

...Petitioner

Vs.

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.

2.The District Educational Office (Elementary)
Kallakurichi District.

3.The Block Educational Officer,
Thirukovilur,
Kallakurichi District.

4.The Correspondent,
Danish Mission Middle School,
Kellaiyur, Thirukovilur,
Kallakurichi District 605 757.

...Respondents



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Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, calling for the records relating to proceedings issued by the 2nd respondent in Na.Ka.No.475/A2/2023 dated 05.12.2024 and quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of B.T.Assistant (History) in the 4th respondent school from the date of appointment on 01.03.2019 with all consequential and attendant benefits including the payment of salary from the date of appointment along with interest.

For Petitioner : Mr. S.Nedunchezhiyan

For Respondents : Mrs. Mythreye Chandru
1 to 3 Special Government Pleader

For Respondent 4: No Appearance.

ORDER

This writ petition is filed for the following relief:

*“To call for the records relating to proceedings
issued by the 2nd respondent in Na.Ka.No.475/A2/2023*



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dated 05.12.2024 and quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of B.T.Assistant (History) in the 4th respondent school from the date of appointment on 01.03.2019 with all consequential and attendant benefits including the payment of salary from the date of appointment along with interest. ”

2.The 4th respondent school is the Government aided minority school. It is submitted that vacancy had arisen due to the sudden demise of one Mrs. M.Mary Stella Baby, in the post of Secondary Grade Teacher on 11.01.2018. The petitioner was appointed in the upgraded post of B.T.Assistant (History) in the 4th respondent School by orders of the 4th respondent dated 28.02.2019. Accordingly, the petitioner joined the service in the post of the B.T.Assistant (History) on 01.03.2019. Thereafter, the 4th respondent school submitted a proposal on 10.03.2019, to respondents for approval of her appointment, with effect from 01.03.2019. However, the same was rejected stating that the said post was surplus in corporate management



and prior permission is required before appointing the petitioner to the upgraded post as well as the petitioner has not cleared TET examination.

3. Challenging the rejection of approval for sanctioned post in the 4th respondent School, the petitioner is before this Court.

4. This Court in a similar case in **WA.(MD).No.1716 of 2024 dated 26.09.2024**, had observed as follows:

2.The order in the writ petition which is the subject matter of the appeal arose under the following circumstances: The petitioner which is an aided minority institution is under a corporate management. A vacancy arose in one of the schools due to the retirement of one M.G.Mary Isabell who was a B.T.Assistant (History) and the post was upgraded automatically as B.T.Assistant in terms of G.O.Ms.No.79, School Education Department, dated 14.06.2022. In the upgraded vacancy, the corporate management transferred one Sr.Roselet Mary as a



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*B.T.Assistant in English, by its order dated 01.06.2017 and she joined the school on 08.06.2017. When approval was sought for the said appointment that came to be rejected on the ground that there was a surplus teacher in the school from the years 2017-2018 to 2019-2020. This order was passed on 02.07.2020, despite the fact that this Court had as early as on 21.03.2012 by its pronouncement made in S.Rasheetha Banu vs. State of Tamil Nadu, Represented by its Secretary to Government, Chennai and others held that the question of surplus will have to be taken on the date of appointment and not thereafter. **It was also held that if the appointment is to a sanctioned post the fact that it becomes a surplus in view of subsequent reduction in student strength cannot be a ground for rejecting approval.** In fact that the judgment in S.Rasheetha Banu vs. State of Tamil Nadu, Represented by its Secretary to Government, Chennai and others followed the pronouncement of Division Bench of this Court in W.A. (MD)No.703 of 2019. It is not in dispute that the judgment*



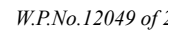
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in S.Rasheetha Banu was not appealed against and it has become final. The appointment of Sr.Roselet Mary was on 08.06.2017. Therefore, it is within the period 2016-2017 for the purposes of staff fixation. The fact that at the staff fixation done during the month of August 2017 (2017-18), the student strength came down rendering one post as surplus cannot be a ground for rejecting approval. Therefore the only ground for rejection of approval made out in the order impugned in the writ petition does not survive.

3. Mr.S.P.Maharajan, learned Special Government Pleader would however contend that the modus adopted by corporate management in transferring a teacher and creating vacancy in another school is deplorable. There are several deplorable practices adopted both by the private managements as well as the Education Department and this Court has no power to control or curb the same. It is for the State Government to step in legislatively in order to curb such deplorable practices.



5. In the said Judgement, it is held that if a person is appointed in a sanctioned post, the approval of appointment cannot be rejected and if the number of teachers fall in strength and the post become surplus, after granting approval of the post, the said teacher along with post could be transferred / deployed to a needy school.

“(b) Not qualified in Teacher Eligibility Test (TET): It is a well settled proposition that a qualification in the Teachers Eligibility Test (TET), is not a pre-requirement for appointment of a teacher in a private minority educational institution. Following this proposition, this Court in the case of T.Sahayam Vs. The District Educational Officer, Tiruchendur and others, passed in W.P.(MD)No.24902 of 2019, dated 05.07.2022, had placed reliance on other



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decisions of this Court, upholding this proposition, in the following manner:

“7. Insofar as the reason assigned by the respondent that the proposal cannot be accepted for want of TET qualification is concerned, this reasoning has also been dealt with by this Court in several writ petitions, wherein it was held that the pre-requirement of TET qualification for a teacher in a Minority Institution, is not mandatory.

8. In one such decision of this Court in the case of J.D.Christopher Asir Vs. The Director of School Education, DPI Campus, College Road, Chennai and others in W.P. (MD).No.13935 of 2018, dated 29.06.2018, this preposition was held in the following manner:

“9.The issue of requirement of TET qualification for any teacher employed or appointed in a school run by the minority management can no longer be res integra as in a number of cases, the said requirement directed not to be insisted upon. In this regard, as has been pointed out by the



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learned counsel appearing for the petitioner, the issue has been decided in a judgment of Division Bench of the Principal Seat of this Court in the matter of Secretary to Government, Government of Tamil Nadu, Education Department and others Vs. S.Jeyalakshmi and another reported in (2016) 7 MLJ.

10.In the said judgment, the Hon'ble Division Bench has made it clear that the requirement of TET qualification cannot be insisted upon from the teacher working in minority institutions and in this regard a view expressed by the Division Bench and the law held thereon are extracted hereunder:-

“58.In our opinion, non qualifying in TET by the Teachers already in service should not defeat the object of the Government to provide quality and standard education and therefore, the Government may, in the alternative, conduct a refresher course and also some interactive sessions during annual vacation, in order to ensure and enhance the quality of education.



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59. Insofar as minority institutions are concerned, the contention of the learned senior counsel appearing for the minority Schools is that when Tamil Nadu Recognized 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 *Pramati Educational and Cultural Trust V. Union of India (Supra)* 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



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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 18.03.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.”

11.Following the said judgment of the Division Bench, a number of orders have been passed in similar situations, where the teachers appointed in minority institutions / schools sent for approval to the authorities, where the said approval had been rejected on the ground that those teachers did not have the TET qualification.”

Thus, the respondents may not be legally justified in insisting that the petitioner, who is a teacher in Minority Institution, should have passed the TET.”

9.In the light of the aforesaid decisions, rejection of the proposals for appointment of the teachers in a minority educational institutions in these writ petitions, wherever applicable, on the ground that TET is a per-requirement for



appointment of a teacher cannot be sustained.

Therefore, as on date the minority Schools need not the qualification of passing TET as it is not applicable to minority school.

7. In the very same Judgment, the Division Bench of this Court has observed as follows:

*“5. **Prior Permission:** In a case when the Government refused to grant approval of appointment to the proposal made by the minority institution, a Division Bench of this Court in the case of the **Government of Tamil Nadu, Department of School Education and others Vs. J.Remila**, passed in W.A.(MD)No.1350 of 2017, dated 14.11.2017, had placed reliance on Article 30 of the Constitution of India and held that a recognized minority educational institution has a right to establish and administer their institution and any claim for prior permission from the Government Authorities, for appointment of its teachers, would amount to abridgement / dilution of their constitutional rights. While*



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holding so, the Hon'ble Division Bench had consequently held that no prior permission was required for a minority institution to appoint its own teaching and non-teaching staffs. The relevant portion of the order reads as follows:

“27.....In fact, Rule 6 (2) of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, does not stipulate that appointments can be made only after getting prior approval from the concerned authorities. It only says that for the eligibility of grant to a Minority Institution, all appointments made by the Minority institution will have to be approved by the concerned authorities. In the case on hand, the appointment of the First Respondent was made by the Second Respondent Institution and after the appointment, the Second Respondent Institution sought for approval from the concerned authorities, which is in agreement with Rule 6 (2). Further, it is not the case of the Appellants that they have stopped giving grant to the Second Respondent Institution due to the breach of Rule 6 (2) of the Tamil



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Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977. Therefore, the submission of the Learned Special Government Pleader that the Second Respondent Institution has not followed Rule 6 (2) of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, cannot be accepted by this Court.”

6.The aforesaid decision of the Hon'ble Division Bench came to be followed in various other decisions including the case of Immaculate Arputha Mary Usha Vs. The Government of Tamil Nadu, represented by the Secretary, Education Department and others passed in W.P.No.16977 of 2018, dated 08.02.2022.

7.Thus, a prior permission of the Governmental Authorities for appointment of a teacher in a minority educational institutions is not required and therefore, the reasons assigned in this regard for rejection of the proposals for appointment of teachers in these writ petitions, wherever applicable, cannot be sustained.



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.....***“b) for the purpose of fixing the staff strength of a school, school shall be the unit and not the Educational agency / joint management / corporate management.”***

14.Thus, for determining whether there was in existence any surplus teachers in a school, the school alone should be taken as a separate unit and not the schools run by the Corporate Management or the schools in the District as such. Thus, the reasons assigned in these writ petitions, wherever applicable, that approval cannot be granted till redeployment of the surplus teachers in the corporate management, cannot be sustained.

.....***g) Minority school has a right to upgrade the sanctioned post:*** *In the case of the Chief Educational Officer, Tirunelveli and another Vs. S.Josephin Vijaya and another passed in W.A.(MD)No.1497 of 2017, dated 14.12.2017, the minority school had appointed a teacher as a B.T.Assistant in the sanctioned post of Secondary Grade*



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Teacher. The Division Bench held that, when the Secondary Grade Teacher in a sanctioned post had retired on reaching the age of superannuation, the post automatically gets upgraded into that of a B.T.Assistant. Agreeing with the findings of the learned Single Judge, the Hon'ble Division Bench in S.Josephin Vijaya's case (supra) had held that, such conversion by upgradation, was permissible. Following the decision in S.Josephin Vijaya's case (supra), I had passed orders in the case of A.Franklin Raj Vs. The Chief Educational Officer, Tirunelveli and others in W.P.(MD)No. 10963 of 2020, dated 29.06.2022, by holding as follows:

“4.Insofar as reference to GO.Ms.No.144, School Education Department, dated 04.07.2008 is concerned, the Division Bench of this Court in the case of the Chief Educational Officer, Tirunelveli and another vs. S.Josephin Vijaya and another passed in W.A.(MD)No.1497 of 2017 dated 14.12.2017 has held that when a secondary grade teacher retires on superannuation, the post of secondary



grade teacher “automatically” stands upgraded into that of a Graduate Teacher as per G.O.Ms.No.79, Secondary Education (U-1) Department, dated 14.06.2002.

5.In view of such automatic upgradation, the Authorities cannot insist for prior permission of their approval for upgradation of the sanctioned post. As a matter of fact, such a claim for permission would only be a futile exercise. Thus, both the reasons cited by the first respondent for rejection of the proposal, cannot be sustained.”

21.Thus, a minority school would have a right to upgrade the sanctioned post and hence, the reasons assigned in these writ petitions, wherever applicable, cannot be sustained.

8. The above judgements squarely applies to the facts of the instant case and accordingly the impugned order dated 05.12.2024 is quashed and the 2nd respondent is directed to approve the appointment of the petitioner in the post of B.T.Assistant (History) in the 4th



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respondent school from the date of her appointment i.e., on 01.03.2019 with payment of salary and other service and monetary benefits, within a period of 3 months from the date of receipt of a copy of this order.

9. The learned Special Government Pleader on instructions would submit that after approval of the appointment of the petitioner, she should cooperate being accommodated in any school. The learned counsel for the petitioner would submit that the petitioner has no objection for the same after approval is granted.

10. In the result, this writ petition is allowed. No costs.

12.03.2026

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To

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P.T. ASHA, J

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