



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1608 of 2026

and

CMP No. 14834 of 2026

1. The Director of Elementary Education
DPI Buildings,
College Road,
Chennai-600006.
2. The Chief Educational Officer
Office Of The Chief Educational Officer,
Thiruvallur.
3. The District Educational Officer
4. Office Of The Chief Educational Officer,
Thiruvallur.

..Appellant(s)

Vs

1. Josephine Sinthiya
RCM High School,
Karaiyanchavadi, Poonamalle,
Chennai - 600 056.
2. The Correspondent,
R.C.M.High School,
Karaiyanchavadi, Poonamallee,
Chennai – 600 056

..Respondent(s)

WA No. 1608 of 2026

Writ Appeal filed under jClause 15 of Letters Patent to set



aside the order dated 07.09.2023 made in WP No.5484 of 2021 and allow the Writ Appeal.

WA No. 1608 of 2026

WEB COPY For Appellant(s): Dr.R.Gouri, Government Counsel
For Respondent(s): Ms.A.Arul Mary for
M/S.Father Xavier Associates for R1

Judgment

(Judgment of the Court was delivered by S.M.Subramaniam J.)

This Writ Appeal has been filed challenging the order dated 07.09.2023 passed by the writ Court in W.P.No.5484 of 2021, approving the petitioner's appointment.

2. The Hon'ble Supreme Court has held that the qualification of Teachers Eligibility Test (TET) is mandatory for appointment of all teaching staff and there cannot be any discrimination in the matter of educational qualification amongst the teachers. In view of the fact that the Constitutional Bench has taken a decision, the Two Judges Bench of the Hon'ble Supreme Court was not inclined to over rule the Constitutional Bench judgment and referred the particular issue to the Constitutional Bench in respect of minority Institutions. Thus, the issue is subjudice.

3. In prevailing circumstances, it would be improper to grant approval of appointment in respect of teachers, who do not possess TET



qualification. If any such approval is granted in respect of teachers serving in minority institutions, the said approval is subject to final outcome of the

Reference made by the Hon'ble Supreme Court to the Constitution Bench.

4. In the case of **Anjuman Ishaat-E-Taleem Trust vs. The State of Maharashtra & others** reported in **2025 INSC 1063**, the qualification of TET became held as mandatory and any discrepancy in prescription of qualification amongst minority and non-minority Institutions are declared as unconstitutional. The relevant paragraphs of the Hon'ble Supreme Court judgment is extracted hereunder:

"168. NCTE's notification also reinforces this requirement by stating that teachers working in unaided private schools, or those already in position as of 31st March, 2015, must qualify the TET within the stipulated period. The language of both the RTE Act and the notification leaves no room for ambiguity that even those teachers appointed prior to the RTE Act, if not qualified, must meet the TET requirement within the grace period granted. Only those appointed prior to 3rd September, 2001 in accordance with applicable recruitment rules, or those covered by specific exceptions (e.g., Special BTC or D.Ed. courses), were exempted.

169. Thus, read holistically, Section 23 of the RTE Act and the NCTE notifications together establish the TET as a compulsory qualifying criterion for all teachers appointed on or after 23rd August, 2010, and as a time-bound compliance obligation for those appointed earlier without the requisite qualifications. The sole object is to ensure uniform teaching standards across institutions imparting elementary education. Viewed in this light, the TET is not only a mandatory eligibility requirement but it is a constitutional necessity flowing from the right to quality education under Article 21A.

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172. One, however, has to appreciate that most provisions of the RTE Act are regulatory in nature aimed at



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ensuring a safe, inclusive, and meaningful learning environment for children in the 6-14 age group. Requirements such as trained teachers, adequate infrastructure, and prohibition of corporal punishment are educational essentials, not ideological impositions. Exempting minority institutions from all these obligations, regardless of their relevance to minority character is, in our opinion, neither justified nor constitutionally required.

173. The danger of such a blanket exemption is that Article 30(1) runs the risk of being reduced to a tool for evading necessary and child-centric regulatory standards. The constitutional guarantee under Article 30(1), we are inclined to the view, was intended to preserve cultural and linguistic identity and not to provide institutions unqualified immunity from laws framed in the best interest of children.

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175. However, later, Paramathi Educational and Cultural Trust (supra) went on to grant a sweeping exemption to all minority institutions, aided or unaided, falling under Article 30(1) despite what the Bench acknowledged earlier. With respect, it essentially created a dichotomy between the right to education under Article 21A and the collective rights under Article 30(1). Despite insisting on harmony, Article 30(1) seems to have been treated as an unqualified trump card, instead of harmonizing both rights in a manner that minimally impairs institutional autonomy while maximally fulfilling the State's constitutional obligations to children, particularly those from marginalized communities.

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185. Thus, ultimately, a reconsideration of Paramathi Educational and Cultural Trust (supra) seems unavoidable. The minority status of an institution must be grounded in a genuine commitment to serve its community, and not merely operate as a vehicle for evading constitutional duties. If the object of Article 30 is to protect identity, then compliance with the RTE Act, insofar as it does not annihilate that identity, ought not to be viewed as an encroachment.

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187. The Court in Paramathi Educational and Cultural Trust (supra) focused on Section 12(1)(c) of the RTE Act and no other section and held the entirety of the RTE Act to be inapplicable to an entire section of society. Thereby, such



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section, so to say, has been totally excluded from the idea and notion of nation building by providing education to children at the grassroot level. Even if one were to accept that Section 12(1)(c) violated Article 30, the same could have been read down by including at least the children of the particular minority community who also belong to weaker section and disadvantaged group in the neighbourhood. To hold that the entirety of the RTE Act is inapplicable, with due respect, does not appeal to us to be reasonable and proportionate.

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204. We reiterate and hold that the TET is indeed a qualification, necessary to be held by a person seeking appointment as a teacher in a school. Only upon a person obtaining such qualification can he become eligible for appointment as a teacher."

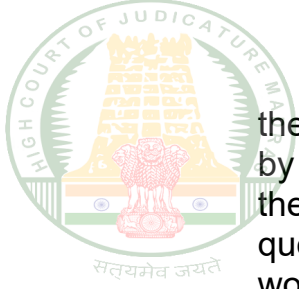
5. After holding that the TET has become a mandatory qualification in Chapter VII, the Hon'ble Apex Court passed an order of reference for consideration by a Larger Bench. In the context of the reference made, further observations were made in paragraph Nos.212, 214, 215, 216, 217, 218, which are extracted hereunder.

212. As regards Civil Appeal Nos. 6365-6367 of 2025, we have already noted that the State of Tamil Nadu raised the argument regarding the TET for the first time before this Court. The appointment proposals of the concerned teachers were rejected on grounds other than the TET, and the TET issue was not raised before the High Court. We are mindful of the settled legal principles that prohibit the introduction of new grounds for the first time before this Court. Therefore, it would have been appropriate to dismiss the civil appeals at the outset on this basis alone. That said, we are conscious of the fact that the institution in which the teacher/respondent seeks appointment is a minority institution. As such, it falls within the scope of the order of reference mentioned above.

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214. Per the detailed discussions above and resting on the same, we hold that the provisions of the RTE Act have to be complied with by all schools as defined in Section 2(n) of



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the RTE Act except the schools established and administered by the minority - whether religious or linguistic - till such time the reference is decided and subject to the answers to the questions formulated above under section VII. Logically, it would follow that in-service teachers (irrespective of the length of their service) would also be required to qualify the TET to continue in service.

215. However, we are mindful of the ground realities as well as the practical challenges. There are in-service teachers who were recruited much prior to the advent of the RTE Act and who might have put in more than two or even three decades of service. They have been imparting education to their students to the best of their ability without any serious complaint. It is not that the students who have been imparted education by the non-TET qualified teachers have not shone in life. To dislodge such teachers from service on the ground that they have not qualified the TET would seem to be a bit harsh although we are alive to the settled legal position that operation of a statute can never be seen as an evil.

216. Bearing in mind their predicament, we invoke our powers under Article 142 of the Constitution of India and direct that those teachers who have less than five years' service left, as on date, may continue in service till they attain the age of superannuation without qualifying the TET. However, we make it clear that if any such teacher (having less than five years' service left) aspires for promotion, he will not be considered eligible without he/she having qualified the TET.

217. Insofar as in-service teachers recruited prior to enactment of the RTE Act and having more than 5 years to retire on superannuation are concerned, they shall be under an obligation to qualify the TET within 2 years from date in order to continue in service. If any of such teachers fail to qualify the TET within the time that we have allowed, they shall have to quit service. They may be compulsorily retired; and paid whatever terminal benefits they are entitled to. We add a rider that to qualify for the terminal benefits, such teachers must have put in the qualifying period of service, in accordance with the rules. If any teacher has not put in the qualifying service and there is some deficiency, his/her case may be considered by the appropriate department in the Government upon a representation being made by him/her.



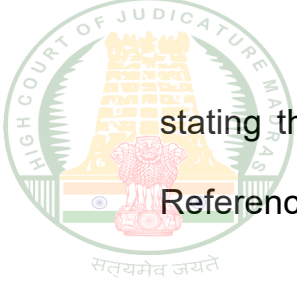
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218. Subject to what we have said above, it is reiterated that those aspiring for appointment and those in-service teachers aspiring for appointment by promotion must, however, qualify the TET; or else, they would have no right of consideration of their candidature.

6. A holistic reading of the above paragraphs would show that approval of appointment granted in respect of teachers, working in Minority Institutions during pendency of Reference made before Constitution Bench of Hon'ble Supreme Court of India is subject to the final outcome and the said position has been reiterated by Government in G.O.Ms.No.300 dated 24.12.2025.

7. Hon'ble Supreme Court declared the Law that there cannot be any discrimination in the matter of qualification and TET, being mandatory qualification for appointment to teaching posts, there cannot be any exemption only to Teachers appointed in Minority Institutions. Discrimination in prescription of educational qualification to Teaching Staff would result in unconstitutionality. However, Two Judges Bench of Hon'ble Supreme Court of India, while declaring TET as mandatory qualification, found that Constitution Bench has granted exemption to Teachers in Minority Institutions in ***Paramathi's case***¹. Thus, Reference has been made to Constitution Bench, which is pending. Authorities competent, while granting approval to Teachers working in Minority Institutions, must clearly indicate the above position in context of Government Order issued in G.O.Ms.No.300 dated 24.12.2025, by

¹(2014) 4 MLJ 486 (SC)



stating that such approval of appointment is subject to the final outcome of Reference pending before Hon'ble Supreme Court of India.

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8. With the above observations, the Writ Appeal is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

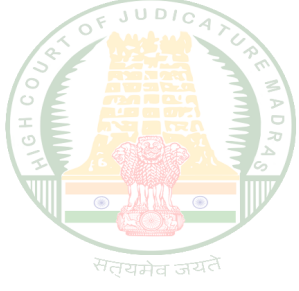
(S.M.S.,J.) (N.S.,J.)
23-06-2026

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

VSI

To

1. Josephine Sinthiya
RCM High School,
Karaiyanchavadi, Poonamalle,
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**S.M.SUBRAMANIAM J.
AND
N.SENTHILKUMAR J.**

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