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W.P.No.33347 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. 33347 of 2025

&

W.M.P.No. 37481 of 2025

M.James

...Petitioner

Vs.

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

2.The District Educational Officer (Elementary),
Villupuram Educational District,
Villupuram.

3.The Block Educational Officer
Ginjee Block,
Villupuram.

4.The Correspondent,
M.D.Aided Elementary School,
Mathapoondi,
Nallanpillai Post, Gingee,
Villupuram District

...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, to call for the records relating to the impugned proceeding issued by the 2nd respondent District Educational Officer (Elementary), issued proceedings in Na.Ka.No.1051/A5/2024 dated 07.10.2024 and to quash the same and consequently directing the respondents 2 and 3 to pass orders for granting approval of appointment of the petitioner in the sanctioned post of Secondary Grade Teacher in the 4th respondent School from the date of appointment with effect from 04.02.2022 with all consequential and other attendant benefits, including payment of arrears of salary from the date of appointment.

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 the impugned proceeding issued by the 2nd respondent District



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Educational Officer (Elementary), issued proceedings in Na.Ka.No.1051/A5/2024 dated 07.10.2024 and to quash the same and consequently directing the respondents 2 and 3 to pass orders for granting approval of appointment of the petitioner in the sanctioned post of Secondary Grade Teacher in the 4th respondent School from the date of appointment with effect from 04.02.2022 with all consequential and other attendant benefits, including payment of arrears of salary from the date of appointment.”

2. The petitioner was appointed as a Secondary Grade Teacher in the 4th respondent School by orders of the 4th respondent dated 02.02.2022. Accordingly, the petitioner joined the service in the post of the Secondary Grade Teacher on 04.02.2022. The 4th respondent school submitted a proposal to the 2nd respondent through the 3rd respondent for approval of his appointment with effect from 04.02.2022. Thereafter, the 2nd respondent passed an impugned order dated 07.10.2024 returning the proposal submitted for the petitioner's



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approval of appointment in the post of Secondary Grade Teacher, stating that he is not qualified with TET and his appointment was made in surplus post.

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 Secondary Grade Teacher 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.



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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. The above judgements squarely applies to the facts of the instant case and accordingly the impugned order dated 07.10.2024 is quashed and the respondents are directed to approve the appointment of the petitioner in the post of Secondary Grade Teacher in the 4th respondent school with effect from 04.02.2022 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.

8. The learned Special Government Pleader on instructions would submit that after approval of the appointment of the petitioner, he 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.



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9. In the result, this writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

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