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W.P.No.32389 of 2024

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. 32389 of 2024

M.Stella Queenmary

...Petitioner

Vs.

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

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

3.The Block Educational Officer (I)
Chinnasalem,
Kallakurichi District.

4.The Correspondent,
Danish Mission Elementary School,
Chinnasalem,
Kallakurichi District

...Respondents



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 proceedings issued by the 2nd respondent in Na.Ka.No.3148/A2/2023 dated 29.12.2023 and to quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of B.T.Assistant (Science) in the 4th respondent school, from the date of appointment on 01.12.2021, 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 Mr. S.Sarath Chandran

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 proceedings issued by the 2nd respondent in Na.Ka.No.3148/A2/2023 dated 29.12.2023 and to quash the same and consequently directing the respondents to approve the appointment of the



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petitioner in the post of B.T.Assistant (Science) in the 4th respondent school, from the date of appointment on 01.12.2021, with all consequential and attendant benefits including the payment of salary from the date of appointment along with interest.”

2. The petitioner was appointed as a B.T.Assistant (Science) in the 4th respondent School by orders of the 4th respondent dated 01.12.2021. Accordingly, the petitioner joined the service in the post of the B.T.Assistant (Science). The 4th respondent school submitted a proposal to the 3rd respondent for approval of her appointment on 24.03.2022. Thereafter, the 2nd respondent passed an impugned order dated 29.12.2023 rejecting the proposal for approval of appointment in the post of B.T.Assistant (Science) stating that the post was surplus post.

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



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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 (Science) 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 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



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*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 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*



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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. We have to go by a law declared by this Court.”

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 there is 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.

6. The Division Bench of this Court in the Judgement reported in ***2022 SCC Online Mad 4513 – S.Halen Raja Soundari Vs. District Elementary Educational Officer and others***, has held as follows:

“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 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,



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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 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.



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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.

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



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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 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.”



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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 29.12.2023 is



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quashed and the respondents are directed to approve the appointment of the petitioner in the post of B.T.Assistant (Science) in the 4th respondent school with effect from 01.12.2021 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, 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.

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

12.03.2026

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To

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1.The Director of Elementary Education,
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Chennai 600 006.

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

3.The Block Educational Officer
Rishivanthiyam,
Kallakurichi District.

4.The Correspondent,
Danish Mission Elementary School,
Manalurpettai,
Kallakurichi District



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