
(2014) 12 MAD CK 0153

In the Madras High Court

Case No : Writ Petition (MD) No. 3117 of 2014

D. Arul Singh Gnana Selvaraj

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Right of Children to Free and Compulsory Education Act, 2009 — Section 23(2)

Citation : (2014) 12 MAD CK 0153

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Judgement

T. Raja, J.—This writ petition has been filed by D.Arul Singh Gnana Selvaraj, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notification issued by the 5th respondent/ A.P.C. Veerabahu High School, Pudhupatti, Thoothukudi District in Tamil Daily "Malai Murasu" dated 14.02.2014, to quash the same in so far as the post of BT Assistant in Science is concerned and further direct the respondents to permit the petitioner to continue in the 5th respondent school as BT Assistant in Science.

2. The petitioner is working as a B.T Assistant in Science in the 5th respondent school by virtue of the appointment order dated 18.09.2012 issued by the 5th respondent. The grievance of the petitioner is that since he has not passed Teachers Eligibility Test (hereinafter referred to as TET), the proposal sent by the 5th respondent school to the 4th respondent/ District Educational Officer, Thoothukudi, Thoothukudi District, requesting for approval of the petitioner's appointment and consequential disbursement of grants-in-aid towards his salary was returned. Even after the proposal was returned by the District Educational Officer on the ground that the petitioner had not passed the TET, when the petitioner has given an undertaking to the school that he would pass the TET before 31.03.2015 as provided under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, the school has once again sent a proposal along with the undertaking of the petitioner to the 4th respondent/

District Educational Officer on 13.05.2013 but till date, no order has been passed, however, the 5th respondent school has issued the impugned notification inviting application from suitable candidates for the post of BT Assistant English for B.C roster and for B.T Assistant Science for M.B.C roster. Challenging the same, the petitioner has come to this Court.

3. Mr. Isaac Mohanlal, learned counsel for the petitioner would submit that when the law demanding a pass in TET examination for the post of B.T. Assistants being the part of the eligibility criteria which has come into force only on 01.04.2010, the teachers appointed after 01.04.2010 have been given concession of five years till 31.03.2015 to pass the TET. The petitioner has been anxiously waiting for taking up TET, but unless the Government comes forward to hold the TET examination, the petitioner would not be in a position to clear the said test, therefore, although the petitioner has given undertaking that he would pass TET examination on or before 31.03.2015, the 5th respondent should not take any coercive action against the petitioner till he passes the TET examination on being held by the State Government.

4. Mr.T.Lajapathi Roy, learned counsel for the 5th respondent would submit that the petitioner will not be disturbed till he acquires TET examination till 31.03.2015. The said statement is recorded.

5. In view of the above, the writ petition is disposed of directing the petitioner to pass the TET examination on or before 31.03.2015, provided the State Government holds the examination before 31.03.2015 and if for any reason, the State Government is unable to hold the TET examination before 31.03.2015, the petitioner must pass the TET examination to be conducted by the State Government after 31.03.2015 even in the first attempt. If the petitioner passes the TET examination within the period as aforesaid, the 5th respondent shall permit the petitioner in the post of B.T Assistant(Science). It is also made clear that as per the impugned advertisement, the 5th respondent can go ahead with the selection process for the post of B.T Assistant English for B.C roster and insofar as the post of B.T Assistant Science for M.B.C roster is concerned, the same shall be kept in abeyance till the petitioner passes the TET examination in the manner as stated above. It is also made clear that if the petitioner is unable to pass the TET examination on being held by the State Government on or before 31.03.2015 or in the first examination being held after 31.03.2015 in the first attempt, he cannot claim any equity to continue in the post of B.T. Assistant (Science) in the 5th respondent college.

6. With the aforesaid observations, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.