

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT APPEAL NO.1553 OF 2023 (S-RES)

BETWEEN:

SRI. RAVEESH C
S/O CHIKKANNA,
AGED ABOUT 42 YEARS,
HIGH SCHOOL TEACHER,
DR. AMBEDKAR HIGH SCHOOL,
HEGGUNDA, NELAMANGALA TALUK,
BANGALORE RURAL DISTRICT.

...APPELLANT

(BY SRI. SRIKANTH M.P., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY,
PRIMARY AND SECONDARY EDUCATION
DEPARTMENT, M.S.BUILDING,
BANGALORE- 560 001.
2. THE COMMISSIONER FOR PUBLIC
INSTRUCTIONS.
NEW PUBLIC OFFICES,
NRUPATHUNGA ROAD,
BANGALORE- 560 001.
3. THE DIRECTOR OF PUBLIC INSTRUCTIONS
SECONDARY EDUCATION
NEW PUBLIC OFFICES,
NRUPATHUNGA ROAD,
BANGALORE- 560 001.

4. THE DEPUTY DIRECTOR OF
PUBLIC INSTRUCTIONS
BANGALORE RURAL DISTRICT,
K.G.ROAD, BANGALORE-560 001.
5. THE BLOCK EDUCATION OFFICER
NELAMANGALA TALUK,
NELAMANGALA-562 123.
6. HEGGUNDA DR.AMBEDKAR
EDUCATION SOCIETY (R)
221/F-1, 1ST MAIN ROAD,
7TH CROSS, 3RD PHASE,
MANJUNATHA NAGAR,
BANGALORE-560 010.
7. THE HEAD MASTER
DR. AMBEKDAR HIGH SCHOOL,
HEGGUNDA, NELAMANGALA TALUK,
BANGALORE RURAL DISTRICT-562 123.
8. CHETHANA H.,
CALIMING TO BE WORKING AS
ASSISTANT TEACHER IN ENGLISH,
DR.AMBEDKAR HIGH SCHOOL,
HEGGUNDA, NELAMANGALA TALUK,
BANGALORE RURAL DISTRICT-562 123.

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1 TO R5;
SRI. CHANDRAKANTH R.GOULAY, ADVOCATE
FOR R6 & R7;
SRI. RANGANATHA S.JOIS, ADVOCATE FOR R8)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED
12.06.2023 PASSED IN W.P NO.6624/2019 OF THE LEARNED
SINGLE JUDGE OF THIS HON'BLE COURT AND ETC.

THIS WRIT APPEAL, HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT ON 19.08.2026 AND COMING ON
FOR PRONOUNCEMENT OF JUDGMENT THIS DAY,
T.P.VIVEKANANDA J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

The appellant has filed the present writ appeal challenging the order dated 12.06.2023 passed in W.P.No.6624/2019 by the learned Single Judge, whereby the prayer of the petitioner to quash condition No.7 in the order dated 25.02.2014 and condition No.3 in the order dated 01.04.2015 passed by respondent No.1 and further direction to respondent No.6 for appointment of the appellant in the post of Assistant Teacher in English has been rejected.

2. The facts leading to filing of the present appeal are that:

The appellant-writ petitioner is a graduate with the qualification of B.A. & B.Ed., and was appointed in respondent No.6-Education Society on 29.05.2005 as Assistant Teacher and the said post was a permanent post with no grant-in-aid. The appointment of the appellant-writ petitioner was approved by respondent No.4 on 20.01.2011, however, without the grant-in-aid. In the said approval order, the designation of the

appellant-writ petitioner has been shown as Assistant Teacher (English). Subsequently, respondent No.6-Institution was extended the benefit of grant-in-aid by respondent No.1 through the Government Order dated 25.02.2014 (Annexure-L) and the teachers who are brought under the purview of grant-in-aid were three in numbers as detailed in the said order. Though, the name of the appellant was forwarded in the proposal, however, the same was not approved in view of condition No.7 of the said order. It states that the Assistant Teacher (English) i.e., appellant herein does not possess requisite qualification, has been excluded from the purview of grant-in-aid. It is further stated that the said post shall be filled in by an applicant who possess requisite qualification within three months in accordance with the Rules. Pursuant to the order dated 25.02.2014 of the State Government more specifically in terms of Clause 7, respondent No.6 has notified to fill up the post of Assistant Teacher (English) and Assistant Teacher (Hindi) and after following the procedure of selection, appointed respondent No.8 to the post of Assistant Teacher (English). On the proposal of respondent No.6, the respondent No.8 has been extended grant-in-aid through Government Order dated 02.03.2019.

3. When things stood thus, the appellant-writ petitioner filed W.P.No.6624/2019 assailing condition No.7 of the Government Order dated 25.02.2014 and the Government Order dated 01.04.2015 insofar as direction to respondent No.6 to fill up the post of Assistant Teacher from the reserved category. The appellant-writ petitioner has also sought for multiple prayers including quashing of the Government Order, by which, the post held by respondent No.8 was extended the grant-in-aid.

4. The contention of the appellant in the present appeal is that, when his appointment was approved by respondent No.4 in the post of Assistant Teacher (English) without the grant-in-aid, his appointment was against the post of Assistant Teacher (English), though, he had the qualification of B.A. & B.Ed. in Arts. The said approval was accorded in the light of the Circular dated 04.12.2010 at Annexure-H. It is his contention that, in view of the dearth of qualified English teachers, the Institutions were permitted to fill up 50% of the post of English teachers from out of the teachers who have the qualification of graduation in Arts subject and who had studied the English language as one of the subjects in their graduation. Therefore, notwithstanding the fact that the appellant had no

qualification to be appointed as the English Teacher, however, in terms of the aforesaid Circular, his case should have been considered for inclusion in the grant-in-aid order. It is the further contention of the appellant that the imposition of condition No.7 in the Government Order dated 25.02.2014 at Annexure-L is contrary to the Circular dated 04.12.2010 at Annexure-H.

5. It is further contended that, since it was only one post of English teacher in respondent No.6- Institution, the same could not have been reserved for SC category. It is the further contention of the appellant-writ petitioner that, though the learned Single Judge has taken note of the fact that in the year 2015, the appellant-writ petitioner was working in respondent No.6-Institution, however, the Management has not forwarded the case of the petitioner for grant-in-aid. Despite observing the same, the learned Single Judge did not show indulgence in allowing the writ petition, but dismissed the writ petition on the ground that the order dated 01.04.2015 is challenged belatedly after four years and thus, the appellant-writ petitioner prayed to allow the writ appeal and to set aside the appointment of respondent No.8 and direction to

respondent No.6 to appoint the appellant in the post of Assistant Teacher (English).

6. The learned Additional Government Advocate appearing for respondent Nos.1 to 5 submits that, in the first place, the Circular dated 04.12.2010 at Annexure-H relied upon by the appellant is not applicable to the case on hand, since the said Circular was issued in respect of appointment of teachers in the Government High Schools. In the present case, the appointment is to an aided educational institution. It is his further submission that when an amendment was brought to the Karnataka Education Department Services (Department of Public Instructions) (Recruitment) (Amendment) Rules, 2002, to treat the teachers who acquired a diploma certificate in English from the Regional Institute of English, South India (hereinafter referred to as "RIESI" for short), on par with the teachers who had studied B.A. & B.Ed., with English language as one of the optional subject, the said Rule having been challenged before the Karnataka Administrative Tribunal resulted in quashing of the said Rule by the Co-ordinate Bench of this Court in W.P.No.2772/2011 and W.P.Nos.69822-69826/2005. Therefore, the appellant herein, who had no

requisite qualification for appointment to the post of Assistant Teacher (English), cannot rely upon the Circular at Annexure-H, when the amendment to the aforesaid Rules itself was struck down.

7. The learned Additional Government Advocate further relied upon the judgment of the Hon'ble Supreme Court in the case of ***P.V.George and Others Vs., State of Kerala and Others***¹ contending that when a law is declared by a Court, it will have a retrospective effect, if not otherwise stated to be so specifically and there is no concept of prospective overruling. He further requests this Court to apply the same principle to the present case. If it is so applied, the Circular at Annexure-H will be of no consequence in the light of the judgment in W.P.No.2772/2021 and accordingly, sought for dismissal of the writ appeal.

8. The learned counsel for respondent Nos.6 and 7 submits that respondent No.6 has acted on the basis of the instructions of respondent Nos.3 and 4 and issued recruitment notification, after complying with the procedure contemplated has appointed respondent No.8 and accordingly, seeks to

¹ **(2007) 3 SCC 557**

sustain the order impugned in the writ petition, so also the order passed by the learned Single Judge.

9. The learned counsel appearing for respondent No.8 submits that her appointment is strictly in accordance with law and in terms of the directions of respondent Nos.3 and 4, she is working as an Assistant Teacher (English) from the year 2019, therefore, at this juncture, her appointment cannot be interfered with at the instance of the appellant.

10. We have heard Sri Srikanth M.P., learned counsel for the appellant, Sri Vikas Rojipura, learned AGA for respondent Nos.1 to 5, Sri Chandrakanth R.Goulay, learned counsel for respondent Nos.6 and 7 and Sri Ranganatha S.Jois, learned counsel for respondent No.8 and perused the materials on record.

11. We see considerable force in the submission of learned Additional Government Advocate that the Circular dated 04.12.2010 at Annexure-H is not applicable to the case on hand. Since, respondent No.6 - Institution is an aided institution, the Circular dated 04.12.2010 was made applicable only in respect of the Government Schools.

12. The learned Additional Government Advocate is fully justified in placing reliance on the order passed in W.P.No.2772/2011 and connected matters, where the amendment to the Rules prescribing the minimum qualification for appointment to the post of Assistant Teachers to teach English language was set at naught holding that the diploma certificate in English language obtained from R.I.E.S.I., shall not be equated with the degree of B.A. & B.Ed., with English as an optional subject. When the statutory Rules itself has been set at naught being ultra vires of the provisions of the Education Act, the Circular at Annexure-H, which has no application to the facts of the present case cannot be pressed into service to seek consideration for appointment to the post of Assistant Teacher (English).

13. The contention of the appellant is that while his appointment was approved by respondent No.4 by the Memorandum dated 20.01.2011 his designation was shown as Assistant Teacher (English), however, when the proposal was forwarded for grant-in-aid, his name was not forwarded. It is necessary to notice that the initial appointment was approved without the grant-in-aid. If the grant-in-aid is to be extended to a particular post, the appointment or recruitment shall be in the

manner known to law. It is in the said circumstances, the State Government while extending the grant-in-aid to respondent No.6-Insitution by order dated 25.02.2014, the name of the appellant has been excluded with a further instruction that the suitable applicant may be appointed who is having the prescribed educational qualification within a period of three months.

14. In the light of the said instructions, the respondent No.6 has rightly issued the notification for recruitment and appointed of respondent No.8. Though, respondent No.8 was appointed in the year 2018, however, the State Government has extended the grant-in-aid to the said post only in the year 2019. It is submitted at the bar that immediately after respondent No.8 was appointed, the appellant was kept out of employment. Though, the appellant was aware of the Government Order dated 25.02.2014 and 01.04.2015 in the year 2015 itself, only when the State Government extended the grant-in-aid to the post of respondent No.8, the writ petition has been filed in the year 2019. Therefore, the learned Single Judge was right in dismissing the writ petition not only on merits, but also on the ground of delay in challenging the

appointment of respondent No.8 and the Government Orders dated 25.02.2014 & 01.04.2015.

15. The other contention of the appellant that there was dearth in the availability of English teachers and that applying the Circular at Annexure-H, the appellant should have been considered for appointment to the post of Assistant Teacher (English) is without any substance. In as much as when the notification was issued by the respondent No.6 for the recruitment to the post of Assistant Teacher (English), the candidates who had requisite qualification have applied for the said post and respondent No.8 was considered to be suitable and was appointed by respondent No.6. Therefore, no exception can be taken to the action of respondent No.6 in appointing respondent No.8 as Assistant Teacher (English) as per the instructions of the 1st respondent. Since, the appellant has no requisite qualification for appointment as Assistant Teacher (English) has no locus to challenge the reservation of the post to a particular category. Once the Institution is brought within the fold of grant-in-aid the respondent No.6 is bound by the direction of the Government.

16. In the light of the above discussion, we see no merits in this writ appeal. Accordingly, the writ appeal is ***dismissed.***

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

PB