

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

Writ Petition No. 23936 of 2015

Between:

Bhavan's New Science College, A unit of Bharatiya Vidya Bhavan
rep. by its Secretary and Correspondent Dr. S. Jaikishan, situated
at Narayanguda, Hyderabad.

.. Petitioner

And

The State of Telangana, through its Principle Secretary,
Department of Higher Education, Secretariat, Hyderabad and
another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 10.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be
Yes/No
marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to
Yes/No
see the fair copy of the Judgment?

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.23936 of 2015

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ORDER

This writ petition is filed under Article 226 of the Constitution of India for the following relief;

“to issue a writ, order or direction more particularly in the nature of a writ of mandamus declaring the action of the Commissioner, Collegiate Education, the 2nd respondent herein, in issuing proceedings in Rc.No.2007/389/Admn.II/2015-110 dated 22.07.2015 as arbitrary, illegal, contrary to law, without the authority of law and also as being in violation of the fundamental rights guaranteed under Articles 14,19 and constitutional guarantee contained in Article 300A of the Constitution of India as also in violation of Section 46 of A.P. Education Act and consequently direct the 2nd respondent to continue the grant in aid facility to the petitioner”.

2. Heard Sri L. Ravi Chander, learned Senior Counsel appearing for the counsel for the petitioner on record and the learned Government Pleader for Education (TG).

3. According to the petitioner, it is an Educational Institution working under Bharatiya Vidya Bhavan and came to be established in the year 1956 under the Chairmanship of Dr. GS Melkote. It is stated that the said Bharatiya Vidya Bhavan took over the management of the petitioner College in the year 1982 and the petitioner College is affiliated to Osmania University. It is further

stated that the petitioner's Educational Institution runs day college, which offers courses such as B.Sc., with variance of combinations and M.Sc Applied Electronic, Botany and Zoology at the Post Graduate Level in English Medium. It is further stated that the petitioner herein runs evening college, which offers B.A and B.Com., courses in English and Telugu Medium. It is further stated that the petitioner college is one of the popular undergraduate colleges in the city and has been running without any complaints since 1956.

4. Apart from other aspects of the matter, the grievance of the petitioner in the present writ petition is that the Commissioner of Collegiate Education, Telangana State, Hyderabad, the 2nd respondent herein, issued an order vide proceedings Rc.No.2007/Admn.II/2015-IIO dated 22.07.2015, withdrawing the grant-in-aid to the petitioner herein without any notice and opportunity of hearing to it.

5. It is contended by the learned senior counsel, appearing for the petitioner that the said action on the part of the second respondent is highly illegal, arbitrary and unreasonable besides being opposed to the very spirit and object of the provisions of Section 46 of the Andhra Pradesh Education Act, 1982, which reads as under;

“Power of Government to withhold, reduce or withdraw grant-(1) Notwithstanding anything in this Chapter, the Government may, after such enquiry as they may deem fit, withhold, reduce or withdraw any grant payable to an educational institution having regard to the funds at the disposal of the Government or the conduct and efficiency and the financial condition of such institution, after giving an opportunity to the manager of the institution concerned of making a representation against such withholding, reduction or withdrawal.

(2) Without prejudice to the generality of the provisions of sub-section (1) or any other provision of this Act, the Government may, after such enquiry as they may deem fit, withhold, reduce or withdraw any grant payable to any educational institution if the manager of the institution concerned,-

- (i) fails to fulfill all or any of the conditions of grant;
- (ii) denies admission to any citizen on grounds only of religion, race, caste, language or any of them;
- (iii) allows any employee of the institution to take part in any agitation intended to bring or attempt to bring into hatred or contempt, or intended to excite or attempt to excite disaffection towards the Government established by law in India;
- (iv) directly or indirectly encourages any propaganda or practice of wounding the religious feelings of any class of citizens of India or insulting the religion or the religious beliefs of that class;
- (v) is guilty of falsification of registers, or misuse of funds for purposes other than those for which they are collected;
- (vi) fails to remedy within such reasonable time as may be specified by the competent authority, the defects in the maintenance of accounts pointed out by the auditors; or
- (vii) fails to restore, within the time specified by the competent authority, an employee whose services have been wrongfully dispensed with or fails to pay him any arrears of salary or other benefits when directed to do so by the competent authority.

(3) Subject to the other provisions of this Act, every order passed under this Section shall be final and shall not be questioned in any Court of law.

While referring to the above provision of law, it is the submission of the learned senior counsel that without being preceded by any enquiry and opportunity of being heard to the petitioner herein, the second respondent issued the impugned proceedings, withdrawing the grant-in-aid.

6. Per contra, it is vehemently contended by the learned Government Pleader for Education that by virtue of the impugned proceedings dated 22.07.2015, the second respondent differed the

release of grant-in-aid only on the ground of non-submission of salary bills by the petitioner herein.

7. Obviously, the reason for differing the release of grant-in-aid is non-submission of salary bills as per the proceedings dated 22.07.2015. In view of the same, this Court deems it appropriate to permit the petitioner herein to submit the salary bills for the months of July to September, 2015 to the second respondent herein for taking appropriate action.

8. For the aforesaid reasons, the Writ Petition is disposed of, permitting the petitioner to furnish the information as mentioned in the impugned proceedings dated 22.07.2015, within a period of one week from the date of receipt of a copy of this order, and if any such information is furnished by the petitioner, the respondents are directed to consider the same and pass appropriate orders in accordance with law after giving notice and opportunity of hearing to the petitioner herein. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI

10th August, 2015

sj