

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.34264 of 2011

ORDER:

This writ petition was filed by the Correspondent of Arya High School, Chaderghat, Hyderabad, assailing the proceedings dated 13.12.2011 passed by the District Educational Officer, Hyderabad District, which, in effect, held the petitioner unfit to continue as the Correspondent of the said school and accordingly suspended him from the correspondentship with immediate effect with instructions to handover complete charge to the Deputy Educational Officer, Charminar Zone, who was appointed as a Special Officer.

By order dated 27.12.2011, this Court granted interim suspension of the impugned proceedings dated 13.12.2011 but the petitioner was directed not to deal with financial matters, including signing of the salary bills, and these functions were to be performed by the Deputy Educational Officer, Charminar Zone, Chanchalguda, Hyderabad.

Pleadings being complete, the matter is amenable to final disposal and this Court does not propose to pass separate orders upon the vacate stay petitions filed by the State and the school authorities who were impleaded as respondents 6 to 8 in the writ petition by order dated 26.09.2012 passed by this Court in W.P.M.P.No.12492 of 2012.

The short issue that falls for consideration before this Court is as to whether the proceedings of the District Educational Officer, Hyderabad District, dated 13.12.2011 were in compliance with the due procedure.

It is relevant to note that the enquiry conducted by the Deputy Educational Officer, Charminar Zone, which was the basis for the impugned proceedings, was in the context of the allegations and counter allegations between the petitioner and one A. Devdas, President of Arya Educational Society, Chaderghat, Hyderabad. It is

not in dispute that the appointment of the petitioner as the Correspondent of the school was approved by the competent authority, the District Educational Officer, Hyderabad, on 15.09.1992.

The Deputy Educational Officer, Charminar Zone, being the enquiry officer, ultimately submitted a report on 06.08.2010, wherein he recommended that persons like the petitioner should not be continued in any educational institution owing to his misbehaviour with the Education Department officials and his threats. The purport of the impugned proceedings based on this report was therefore to declare the petitioner unfit for the post of Correspondent of the school.

Section 24 of the Andhra Pradesh Education Act, 1982 (for short, 'the Act of 1982'), deals with the appointment and removal of the manager of a private institution. Section 24(2) of the Act of 1982 provides that the management shall, for the purposes of this Act, nominate a person to manage the affairs of the institution, whether called by the name of secretary, correspondent or by any other name, and intimate such nomination within thirty days thereof to the competent authority. Section 24(4) of the Act of 1982 is relevant for the purposes of this case and reads as under:

“The competent authority may, for reasons to be recorded in writing, declare a person to be unfit to be the manager of a private institution after giving to such person an opportunity of making his representation against such declaration and under intimation to the management and on such declaration, the person aforesaid shall cease to be the manager of the private institution and the management of such institution shall nominate another person as a manager in his place in accordance with the provisions of sub-section (2).

Provided that no manager of a minority educational institution shall be declared to be so unfit under this sub-section save for mis-management.”

This Court had occasion to consider the scope of Section 24(2) of the Act of 1982 in **P. Jagannadha Rao v. Commissioner and**

Director of School Education, Govt. of A.P. ^[1] and held that though the provision is silent with regard to providing an opportunity and notice to the existing Correspondent, the power to appoint a Correspondent or change a Correspondent under Section 24 of the Act was a statutory power and in the absence of a statutory prescription excluding the principles of natural justice, the seminal principle of natural justice-*audi alteram partem* is implicated and is not excluded by mere statutory silence. This Court therefore held that before effecting any change in the correspondentship, the competent authority is obligated at least to provide a minimal opportunity to the existing Correspondent.

In the present case, the impugned proceedings relate to Section 24(4) of the Act of 1982 and do not pertain to a mere appointment under Section 24(2). In fact, having held the petitioner unfit to be continued as a Correspondent, the District Educational Officer, Hyderabad District, made alternative arrangements by appointing the Deputy Educational Officer, Charminar Zone, as a Special Officer. The mandate of Section 24(4) of the Act of 1982 is in clear terms and requires the competent authority to allow the Correspondent to make a representation against the proposed declaration of his being unfit, before such a declaration is made. Admittedly, in the present case, no such notice was given to the petitioner informing him that the competent authority proposed to declare him unfit for the post of Correspondent. The learned Government Pleader for Education fairly conceded that though an enquiry was held into the affairs of the school, no specific notice was ever given to the petitioner that a declaration under Section 24(4) of the Act of 1982 was proposed to be made against him. There was therefore a clear violation of the statutory procedure. The impugned proceedings based on such violation therefore cannot be sustained.

The writ petition is accordingly allowed setting aside the impugned proceedings dated 13.12.2011 of the District Educational

Officer, Hyderabad District.

Sri N. Ashok Kumar, learned counsel appearing for the school authorities, vehemently contended that the petitioner is unfit to be continued as a Correspondent and only by virtue of the interim order granted by this Court, he is continuing to hold on to the post. Learned counsel further stated that another Correspondent has already been nominated by the school authorities and therefore, the petitioner is not entitled to continue in office. This aspect of the matter falls beyond the scope of this writ petition as the petitioner's grievance in this case was only with regard to the impugned proceedings dated 13.12.2011. All other aspects and issues are therefore left open.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

8th September, 2015
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[\[1\]](#) 2004 (4) ALD 37