

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

WRIT PETITION No.20327 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking following relief:

“to issue Writ of Mandamus declaring the proceedings Rc.No.6693-A1(C8)/2014-1, dated 29-06-2015 issued by the 3rd respondent withdrawing the recognition of the school by name Bala Vikas Vidya Mandir (English Medium), Diwancheruvu, Rajanagaram Mandal, East Godavari District as illegal, arbitrary and violative of principles of natural justice consequently directing the respondents to allow the petitioner to run the school.”

Heard Sri T.V.S. Prabhakar Rao, learned counsel for the petitioner and learned Government Pleader for Education for respondents.

Petitioner is a school at Diwancheruvu village of Rajanagaram mandal, East Godavari District. The District Educational Officer – 3rd respondent herein issued a notice vide Rc.No.6693-C8/2014, dated 21-02-2015 asking the petitioner to show cause as to why the recognition granted earlier should not be withdrawn while pointing out that as per the report of the Deputy Educational Officer, Rajahmundry the school is not having proper infrastructure facilities to run the school and no play area is annexed to the school. In response to the said show cause notice, dated 21-02-2015 the petitioner herein submitted an explanation, stating that the petitioner herein provided necessary infrastructure facilities for catering the needs of the students and the students

are satisfied the facilities provided by the institutions and there has never been any complaint from the department about the required infrastructure in the previous years. The petitioner herein further stated in the said explanation that in the event of there being any bonafide mistakes or shortcomings on their part they have no objection to comply with the same as early as possible upon necessary instructions from the authorities in the said regard and there has been no intentional violation of any rule. The petitioner herein also requested the 3rd respondent herein to permit them to remedy the said shortcomings, if any, at the earliest.

After receipt of the said explanation offered by the petitioner herein the District Educational Officer – 3rd respondent herein vide proceedings Rc.No.6693-A1(C8)/ 2014-1, dated 29-06-2015 had withdrawn the recognition granted earlier in favour of the petitioner herein for the academic year 2015-16. In the said impugned proceedings, dated 29-06-2015 it is alleged that the petitioner herein violated Sub Rule (22) of Rule 10 of G.O.Ms.No.1 Education, dated 01-01-1994.

It is contended by the learned counsel for the petitioner that the 3rd respondent herein without considering the objections/explanation and also without considering the documents submitted by the petitioner with regard the new premises passed the impugned order. It is also brought to the notice of this Court that after filing the explanation, on 08-06-2015 also the petitioner herein addressed a letter to the District Educational Officer informing that the school has been

shifted to a new premises.

A perusal of the material available before this Court clearly and categorically discloses that certain aspects brought to the notice of the 3rd respondent were not taken into consideration while passing the impugned order. It is the submission of the learned Government Pleader that the present writ petition filed under Article 226 of the Constitution of India is not maintainable in view of the availability of the alternative remedy of the appeal under Section 89(1) of A.P. Education Act, 1982.

In view of the availability of the alternative remedy of appeal, this Court deems it appropriate to relegate the petitioner to the said alternative remedy of appeal while protecting the interest of the petitioner institution keeping in view the prospects of the students till filing of the said appeal.

For the aforesaid reasons and having regard to the nature of controversy, this writ petition is disposed of, permitting the petitioner herein to file statutory appeal under the provisions of Section 89 of A.P. Education Act within the period stipulated under the statute. In the facts and circumstance of this case, this Court deems it appropriate to direct the respondents herein not to give effect to the impugned order, dated 29-06-2015 for a period of three (3) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

A.V. SESA SAI, J

July 06, 2015
Note: Furnish C.C.
tomorrow. B/o.Pn

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