

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.2848 of 2015

ORDER:

Heard the learned senior counsel for the petitioner and learned G.P.for Education and also heard Mr.V.S.R.Anjaneyulu, who has stated to be filed an implead petition, though the said implead petition is not listed.

With the consent of all the learned counsel, I have heard the writ petition finally as the record is also already produced by the learned Government Pleader and the writ petition is disposed of by this order.

Questioning the proceedings of the 2nd respondent in Rc.No.6465/2014, dated 05.12.2014 and the subsequent proceedings in Rc.No.816/PS-II-I/2014, dated 07.01.2015 of the 3rd respondent in dismissing the petitioner's appeal by affirming the orders of the 2nd respondent as illegal and arbitrary, the petitioners filed the present writ petition. The first petitioner is a society established in the year 1907 and is governed by the provisions of Societies Registration Act without getting any financial assistance or aid from the government and is now running a Pre-Primary School, Higher Secondary School and a Junior College under its aegis. Second petitioner states that he is the elected Secretary and Correspondent of the 1st petitioner society for the period till 2017 and managing its affairs successfully, scrupulously following the rules and regulations applicable. But some of the past members of the committee/society filed number of writ petitions against the

petitioners herein since the year 2000. W.P.No.84 of 2012 and W.P.No.14091 of 2014 were filed for removal of 2nd petitioner as Secretary and Correspondent and the same are pending adjudication and no interim orders whatsoever are passed by this Court in the said writ petitions. While things stood thus, all of a sudden the respondents herein evolved an ingenious method to remove the petitioner from the office and appointed the 5th respondent as special Officer in his place vide impugned orders on trivial and baseless allegations.

It is further stated that the officials of the School Education Department and the Intermediate Education Department have periodically inspected the educational institutions managed by the petitioners as required under rules/statute. Till June 2014, the respondents never pointed out about the affairs of the petitioners' society in all aspects. On 01.07.2014, the 5th respondent inspected the 1st petitioner's school and requested the petitioner to furnish complete information and accordingly the petitioners furnished the same on the very same day and again on 17.10.2014 the petitioner furnished the very same information for the second time. Later the 4th respondent vide letter dt.25.10.2014 asked some more information pertains to internal affairs of the first petitioner and accordingly, the petitioner furnished the same on 05.11.2014. Even though the 2nd respondent surreptitiously removed the petitioner from the office vide the impugned proceedings and appointed the 5th respondent as Special Officer by exercising his powers under Section 24 of the A.P. Education Act. Aggrieved thereby, the petitioners filed this writ petition.

The learned Government Pleader has produced the original

record of the primary authority – District Collector. I have examined the same. It is apparent from the record that though the impugned order was passed by the primary authority under Section 24 of the A.P.Education Act, I do not find any show cause notice preceding the said impugned proceedings. A bare reading of Section 24(3)(a)(b) and Sub Clause (iv) itself would show that for any action contemplated under any of the said provision, a show cause notice is required to be issued and an opportunity of making a representation is also required to be given to the person against whom the action is intended. The order impugned further shows that the proceedings of District Educational Officer dated 25.10.2014 are referred to is a notice in compliance with the aforesaid provision. However, the said notice was actually a notice requesting the petitioner to produce the information about the pending writ petitions to enable the government to file counter affidavits in the said writ petitions. Therefore, I find infraction of Section 24. Hence, neither the order passed by the District Collector impugned herein as well as the appellate order passed by the Commissioner for School Education is sustainable.

Hence, the impugned orders are set aside. The writ petition is disposed of with the following further directions:

i) Impugned orders of the Collector as well as Director of School Education referred to above are set aside. The matter shall go back to the District Collector, who shall be at liberty to issue a fresh show cause notice to the petitioner by pointing out the alleged irregularities against him and give liberty to him to submit his representation against the said show cause notice. The proposed parties are also at liberty to bring their grievance to the notice of the District Collector;

ii) The petitioner shall be given clear show cause notice as

to the nature of action proposed to be taken by the Collector and he will be given sufficient time to file his representation on all the factual and legal aspects including the locus of the third parties and thereafter the Collector shall take a final decision in the matter and act accordingly;

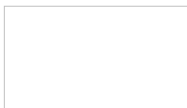
iii) The District Educational Officer shall monitor the functioning of the institution under the petitioners in the interregnum; and

iv) The District Collector is required to complete the exercise as directed above expeditiously and in any case within three months from the date of receipt of copy of this order.

Accordingly, the writ petition is allowed. No costs. The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date:04.03.2015
Rns.



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