

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

WRIT PETITION No.33207 of 2015

ORDER:

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

“to issue writ of Mandamus to declare the Memo No.14926/CE/A2/2012-5, dated 15.6.2015 issued by the respondent No.1 confirming the proceedings in Rc.No.I 218/Admn.VI-1/2011 dated 25.9.2012 issued by the respondent No.2 and the consequential proceedings bearing Procds.No.1218/Admn.VI-1 /2011, dated 15.7.2015 issued by the respondent No.2 as illegal and ultra vires to the provisions of Article 14 of the Constitution of India and Doctrine of principles of natural justice besides being contrary to the provisions of the A.P. Education Act and the Rules framed thereunder on the subject, directing the respondents not to proceed further.”

Heard Sri V.S.R. Anjaneyulu, learned counsel for the petitioner and learned Government Pleader for Education for respondents, apart from perusing the material available before this Court.

The Director of Collegiate Education, Andhra Pradesh, Hyderabad vide Procds.Rc.No.1218/Admn.VI-1,2011, dated 25-09-2012 passed an order, directing the management of the petitioner college to return the alleged excess fee collected from the students of the petitioner college (UG, PG and other courses).

As against the said order passed by the Director, the petitioner college filed appeal on 30-10-2012 under Section 89 (B) of the A.P. Education Act, 1982 (for short, 'the Act'). The appellate authority/State Government vide Memo No.14926/CE/A2/2012-5, dated 15-06-2015 dismissed the said appeal.

Calling in question the validity and legal sustainability of the said orders passed by the appellate and the primary authorities, the present writ petition has been filed.

It is contended by the learned counsel for the petitioner that the orders impugned in the present writ petition are highly illegal, arbitrary and violative of Article 14 of the Constitution of India and in contravention of the principles of natural justice. It is the further submission of learned counsel for the petitioner that the 1st respondent herein, without affording an opportunity of personal hearing, without supplying the copies of the report submitted by the lower authorities from time to time after filing the appeal and without giving opportunity to submit objections to the reports submitted, unilaterally dismissed the appeal by virtue of the impugned order.

On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor there is any procedural infirmity in the impugned order, as such, the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is further submitted that both the primary authority as well as the appellate authority passed the impugned orders, strictly adhering to the mandatory requirements of the statute.

The material available before this Court manifestly discloses that the petitioner herein filed appeal under the provisions of Section 89 (B) of the Act against the orders passed by the primary authority – 2nd respondent herein. A perusal of the Memo of appeal filed by the petitioner herein vividly discloses that the petitioner herein raised a number of grounds. The appellate order, dated 15-06-2015 is completely bereft of any reference to the said contentions raised in the grounds of appeal.

It is a settled and a well-established proposition of law that the orders passed by the quasi-judicial authorities should necessarily be supported by valid and convincing reasons and in the absence of the same the orders cannot stand for judicial scrutiny.

In the instant case, the same is conspicuously absent in the order passed by the appellate authority on 15-06-2015, therefore, on this ground alone the order of the appellate authority is liable to be set aside. This Court is of the considered opinion that the issue needs fresh consideration by the appellate authority.

For the aforesaid reasons, the writ petition is partly allowed, setting aside the orders passed by the 1st respondent herein vide Memo No.14926/CE/A2/2012-5, dated 15-06-2015 and the matter is remanded to the 1st respondent herein for consideration afresh on merits after taking into consideration the material available on record and after giving notice and opportunity of being heard to the petitioner herein. This exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

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

A.V. SETHA SAI, J

October 08, 2015

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