

HON'BLE SRI JUSTICE A.V.SESHA SAI

Writ Petition No.20537 of 2014

ORDER:

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

“...declaring the action of the 2nd respondent in issuing proceedings vide Rc.No.2677/C4/SSC(APOSS)/2013, dated 11.11.2013 and Rc.No.2677/C4/SCC(APOSS) Public Examinations conducted during the months of April/May-2012 and October/November 2012, on the ground of under aged, as arbitrary, illegal, unjust, violative of the fundamental rights guaranteed under the constitution of India, violative of principles of natural justice, and consequently set aside the impugned proceedings and direct respondents 2 and 3 to issue the pass certificate and marks memo to the petitioner.”

2. Heard Sri B. Sudhakar, learned counsel for the petitioner and the learned Government Pleader for School Education for respondents.

3. According to the petitioner, he was born on 28.09.1995 and the same was recorded in the School records. He studied from 1st class to 5th class at Sri Rama Krishna Vidyanilayam, Sundaraiah Nagar (Bandaru Gudem), Manuguru, Khammam District, which was registered and recognized by the Government. It is further pleaded that thereafter, the petitioner joined in 6th class in Sri Sitha Rama Public School, Manuguru, Khammam District on 17.07.2006 vide Admission No.3489 and the same was approved by the Deputy Educational Officer, Chunchupally, Kotha Gudem, Khammam District and due to financial and family problems, the petitioner dropped the school studies. It is further averred in the writ affidavit that pursuant to the notification issued by the Andhra Pradesh Open School Society (APOSS), the petitioner appeared for SSC public examinations held in the month of April/May 2012 through the 3rd respondent school and paid the examination fee in favour of

the 2nd respondent and the 2nd respondent issued Hall Ticket bearing Roll No.1222100032-1 and in the examination held in April/May 2012, the petitioner completed two papers i.e., Telugu and English only. It is also stated that once again, the petitioner appeared in the public examination conducted in the month of October/November 2012 for three papers, namely, Mathematics, Science and Social Studies at St. Annoh's H.S., ITDA Road, Bhadrachalam, Khammam District, vide Hall Ticket Roll No.N1222010020-2 issued by the 2nd respondent. It is also the case of the petitioner that he successfully completed all the five papers in the year 2012. The 2nd respondent issued impugned proceedings vide Rc.No.2677/C4/SSC(APOSS)/2013 dated 26.06.2014, informing the petitioner that the performance of the petitioner was cancelled as per norms of the APOSS 2011-12 prospectuses on the ground of under age. It is submitted by the learned counsel for the petitioner that the said action on the part of the respondent authorities is highly arbitrary, illegal, unjust, violative of fundamental rights guaranteed under the Constitution of India and violative of principles of natural justice. It is further submitted by the learned counsel for the petitioner that as per the record sheet vide Appendix No.7 APE Rule 43 and 46 Chapter III issued by the Head Master, Sri Ramakrishna Vidyanilayam, Sundaraiah Nagar, Bandarugudem, Manuguru and as per the Register of Admissions issued by the Principal, Sri Sitha Rama Public School, Manuguru, Khammam District, the date of birth of the petitioner is 28.09.1995 but not 28.09.1997 as stated in the impugned proceedings.

4. Counter-affidavit is filed by the 2nd respondent, denying the averments in the writ affidavit and justifying the impugned action. While reiterating the contents of the counter-affidavit, it is vehemently contended by the learned Government Pleader for Education that in the application submitted by the petitioner herein, the date of birth of the applicant was mentioned as 28.09.1997 and as per the prospectus, one must have completed 14 years as on 31st August of the year of admission. As the petitioner did not fulfill the said condition, there is every justification on the part of the respondent authorities in denying the certificate to the petitioner herein.

5. According to the record sheet produced by the petitioner herein along with the writ petition, issued by Sri Ramakrishna Vidyanilayam, Sundaraiah Nagar, Manuguru, Khammam District, the date of birth of the petitioner was mentioned as

28.09.1995. It is the case of the petitioner herein that due to oversight, the 3rd respondent mistakenly mentioned his date of birth as 28.09.1997 instead of 28.09.1995. It is also to be noted that the petitioner herein was also permitted to take examination and he successfully got through the examinations.

6. Having regard to the facts and circumstances of the case and keeping in view the material available on record, this court deems it appropriate to remand the matter to the 2nd respondent for fresh consideration in the light of the certificates now made available by the petitioner.

7. For the aforesaid reasons and keeping in view the nature of controversy the writ petition is allowed, setting aside the impugned proceedings in Rc.No.2677/C4/SSC(APOSS)/2013 dated 26.06.2014 of the 2nd respondent and the matter is remitted back to the 2nd respondent for fresh consideration in accordance with law. It is open for the petitioner herein to file the Register of admissions issued by the Principal, Sri Sitha Rama Public School, Bandaru Gudem, Manuguru and the record sheet issued by Sri Rama Krishna Vidyanilayam, Sundaraiah Nagar, Bandaru Gudem, Manuguru, Khammam District, before the 2nd respondent herein for his consideration, within a period of one month from the date of receipt of a copy of this order. After filing of the above material by the petitioner before the 2nd respondent within the time stipulated, the 2nd respondent shall enquire in to the matter in the light of the said documents and take appropriate action in accordance with law within two months thereafter. Pending miscellaneous petitions, if any, in this writ petition shall stand dismissed in consequence. No order as to costs.

A.V.SESHA SAI, J

Date: 10.06.2015

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W.P.No.20537 of 2014

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