

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.18682, 14261, 16093, 16375,
18504, 24381, 18423 and 18444 of 2015;
and 36454 of 2014

Common Order:

The petitioners are Inclusive Education Resource Teachers (IERTs). They were appointed on contract basis by the respondents under the programme Sarva Shiksha Abhiyan (SSA) initiated by the Government of India for achievement of Universalisation of Elementary Education (UEE) in a time-bound manner, as mandated by the

86th amendment to the Constitution of India making free and compulsory education to the children of 6-14 years age group, a Fundamental Right. SSA seeks to provide quality elementary education including life skills.

SSA has a special focus on girls' education and Children With Special Needs (CWSN). The Government of erstwhile Andhra Pradesh undertook the initiative under the label "Rajiv Vidya Mission (SSA)". IERTs were sought to be appointed to teach special education to the children with special needs. Thus, the petitioners were appointed to teach education to the children who are mentally or physically challenged. The appointment of IERTs in the CWSN programme is temporary for a period of one year on contract basis. However, their appointments are renewed every year basing on their performance.

It is submitted by the petitioners that the performance of the IERTs is assessed at the end of every academic year and it is the sole criteria for their re-engagement. Since the inception of the programme in the year 2011, performance tests have been conducted and the IERTs who scored good/satisfactory have been re-engaged for the subsequent years. The version of the petitioners is that it is the usual practice. It is further submitted by the petitioners that IERTs are posted at the places where there are vacancies but not necessarily in the Mandal they belong to. Thus, they were posted in different regions but not in their native districts.

The 2nd respondent issued proceedings dated 29-10-2012 directing the Project Officers of SSA in the State not to entertain the transfers of IERTs. However, subsequently, representations were made by some of the IERTs requesting transfer to their native districts. In pursuance of the said representations, the 2nd respondent issued proceedings dated 22-11-2014 and 31-12-2014 relocating the IERTs working in other districts to their native districts and asked the IERTs to join in the respective native places immediately. The said action is challenged by the petitioners in all the writ petitions.

2. It is the contention of the petitioners that the impugned proceedings were issued in the middle of the academic year 2014-15, requests of some of the IERTs were considered and the requests of others were not

accepted. Their version is that the 2nd respondent without any authority owing to the political pressures and reasons best known to him, has issued the impugned proceedings dated 30-5-2015 directing the District Project Officers not to re-engage the IERTs who approached this Court by filing writ petitions. Therefore, it is contended by the petitioners that refusing to

re-engage the petitioners on the ground that they approached this Court seeking redressal by filing writ petitions under Article 226 of the Constitution of India is violative of Article 14 of the Constitution of India and the said proceedings are liable to be set aside. It is further submitted by the petitioners that they have been working for an honorarium of Rs.14,000/- per month for a good cause. The children who require special attention became attached to the petitioners and if they are transferred or not re-engaged in the middle of the academic year, it causes undue hardship not only to the petitioners but also to the children to whom they teach education. Therefore, they filed the present writ petitions to declare the proceedings dated 30-5-2015 issued by the 2nd respondent directing the District Project Officers not to re-engage the petitioners as IERTs for the academic year 2015-16 as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently to direct the 2nd respondent to re-engage the petitioners as IERTs for the academic year 2015-16.

3. The petitions are opposed by the respondents by filing counter affidavits wherein they contended as under:

(a) The IERTs should belong to local Mandals so that they will be available to the children in time to take care and serve better as per the guidelines of SSA. For the academic year 2014-15, SSA planned to select IERTs considering Mandal as unit purely on temporary and contract basis so that the IERTs can serve better as local candidates. Based on these norms, 9 districts completed the process of filling IERT posts and all the centres are functioning from 1st June, 2015 except Hyderabad district. Before taking of the fresh selection of 396 IERTs, it was decided to relocate the non-local IERTs appointed temporarily to their native districts before selecting local eligible candidates as per G.O.Ms.No.300, dated 03-6-2011, which states that the reservation provided for local candidates in the Presidential Order will be followed in all the procurement of manpower.

(b) Nextly, it is submitted that since SSA is a centrally sponsored project and exists for a limited period, it cannot take up regular appointments and in view of this, all the appointments which were made under SSA including IERTs are on contract basis for a limited duration.

(c) Thus, according to the respondents, since the petitioners were appointed purely on contract basis, they

cannot claim re-engagement as a matter of right and the writ petitions filed by them are liable to be dismissed.

4. I have heard the learned counsel appearing for the petitioners, the learned Government Pleader for Education and the learned Standing Counsel for SSA-respondent No.3.

5. There is no denial to the fact that at the time of appointment of the petitioners as IERTs, the procedure of appointing only local candidates is not followed. Basing on the eligibility and skills of the candidates, they were appointed in various vacancies available at relevant time. Since the petitioners teach the children with special needs, the children would be closely associated with them and if their relocation is made in the middle of the academic year, it causes undue hardship to the petitioners and also lot of inconvenience to the children with special needs. Admittedly, the respondents have been re-engaging the IERTs in the subsequent year if their performance is either good or satisfactory.

The performance of the petitioners is found to be either good or satisfactory and this fact has not been denied by the respondents. Though the petitioners, who are appointed on contract basis, cannot claim to be regularly appointed, relocating them abruptly in the middle of the academic year without any sufficient cause is quite unjustified. In all fairness, the respondents ought to have continued the petitioners in their respective places till the

academic year 2015-16.

6. For all these reasons, the respective impugned proceedings issued by the State Project Director are set aside and the respondents are directed to re-engage the petitioners as IERTs for the academic year 2015-16 and continue them in their respect places in which they worked earlier. With the above directions, the writ petitions are disposed of. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

R.KANTHA RAO, J.

20th November, 2015.

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