

HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL NO.255 OF 2015

DATED:27.3.2015

Between:

The National Council for Teacher Education

Represented by its Regional Director

Southern Regional Committee

Nagarbavi, Opp: National Law School

Bangalore

... Appellant

And

E. Abdul Khadar Jilani Shaik

and others ... Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT APPEAL NO.255 OF 2015

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JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

After hearing the learned counsel for the appellant and the learned counsel for the respondents – writ petitioners, we are of the view that while passing the impugned order the learned trial Judge has followed consistent view of the Hon'ble Division Bench in similar matters. However, learned counsel for the appellant says that the relief granted by the learned trial Judge is contrary to the directions of the Hon'ble Supreme Court in *Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale* wherein

it was held that in future the High Court shall not entertain prayer for interim relief by unrecognized institutions and the institutions which have not been granted affiliation by the examining body and/or the students admitted by such institutions for permission to appear in the examination or for declaration of the result of examination. This will also apply to the recognized institutions if they admit students otherwise than in accordance with the procedure contained in Appendix-1 of the Regulations.

In our view, the aforesaid observations were made in peculiar facts and circumstances of that case. Grant of interim relief by Court would depend upon each and every individual case's *prima facie* case and balance of convenience. Moreover, the learned trial Judge has followed the consistent views of the Division Bench of this Court in a matter of this nature. We think that a blanket interim order at times does not render justice to both the parties. Here it appears that the learned trial Judge has not completely followed the safeguards provided by the Division Bench in the interim order for keeping a balance of the situation. It has to be decided on affidavit. Because of the time constraint and also considering balance of convenience and inconvenience, the interim order passed by the learned trial Judge has to be accepted with a modification that the participation in the examination by the students, pursuant to the interim order of the learned trial Judge, will not create any right or equity in favour of any person even if they succeed in the examination, in the event the writ petition is ultimately dismissed by the Hon'ble Trial Judge.

The writ appeal is accordingly disposed of with the above modification.

Pending miscellaneous petitions, if any, shall stand closed. There will be no order as to costs.

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K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

27.3.2015

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