

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

WRIT PETITION No.18150 of 2015

ORDER:

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

“to issue Writ of Mandamus calling for the records relating to issuance of the impugned proceedings L.Dis.No.6126/A3/2014, dated -12-2014 of the 4th respondent granting provisional recognition in favour of the 5th respondent, declare the same as illegal, arbitrary as being the one issued contrary to statutory provisions under A.P. Education Act, 1982 and rules issued thereunder further having adverse effect on the accrued constitutional rights of the petitioner and consequently set aside the same.”

Heard Sri. K. Ram Reddy, learned counsel for the petitioner and learned Government Pleader for School Education.

According to the petitioner, it is an educational society registered in the year 1980 with the sole aim to establish educational institutions in and around Jeedimetla area in R.R. District. The petitioner started S.V. Model High School at Shapur in Jeedimetla by obtaining all required statutory permissions from the competent authorities and the said school is a co-education school with English Medium. It is further pleaded that the strength of students, both girls and boys, is around 400. The recognition of the said school is renewed, which is valid till 2018-19. It is also pleaded that there are about 6 schools within a distance of more than 1 Km., from the school of the petitioner's management and there is no further requirement of any new school in the same

area. It is further stated that the management of the 5th respondent is running a computer institution along with spoken English classes besides undertaking tuitions and the said institution is being run for the last 2/3 years and the said institution is also in a residential building, which is abutting the petitioner's institution. It is averred in the writ affidavit that the petitioner herein to their shock and surprise happened to see a pamphlet, released and circulated in the area by the 5th respondent, to the effect that an institution in the name and style of "Innovative School" has opened up admissions for classes 6th to 10th. It is further stated in the said pamphlet that it is recognized by the Government of Telangana with recognition No.6126/A3/2014. It is also stated by the learned counsel that despite making a representation to the respondents on 26-04-2015 no action has been taken by the respondent authorities.

The complaint in the present writ petition is that the said recognition accorded to the 5th respondent herein by the 3rd respondent – District Educational Officer is in violation of the provisions of Education Act and Rules framed thereunder.

When the matter is taken up the preliminary objection is taken by the learned Government Pleader that there is an effective and alternative remedy available to the petitioner under Section 89 (1) of A.P. Education Act, 1982 (for short, 'the Act').

Section 89 of the Act reads as under:

"89. Appeals:- Save as otherwise provided in this Act:

- a) any person aggrieved by an order passed by an officer or authority other than the Director under this Act may,*

within thirty days from the date of communication of such order, appeal to the Director;

- b) *any person aggrieved by an order passed by the Director under this Act other than an order passed by him under Clause (a) may, within sixty days from the date of the communication of such order, appeal to the Government."*

Therefore, it is evident from the above provision of law that any person aggrieved by an order passed by an officer or authority other than the Director under this Act may, within thirty days from the date of communication of such order, appeal to the Director. In the instant case, the present writ petition has been filed by the petitioner directly before this Court without availing the said efficacious and statutory remedy before the appellate authority. Therefore, this Court is not inclined to entertain the present writ petition in view of said alternative remedy.

For the aforesaid reasons and having regard to the nature of controversy, the writ petition is disposed of, permitting the petitioner herein to file appeal under Section 89 of the A.P. Education Act against the order of the District Educational Officer, Ranga Reddy District, Hyderabad vide proceedings L.Dis.No.6126/A3/2014, dated -12-2014 within a period of one month from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated, the same shall be considered by the Director of School Education, Telangana, Hyderabad – 2nd respondent herein and appropriate orders be passed on the appeal within two (2) months thereafter by giving notice and opportunity to all the stakeholders. There shall be no

order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

A.V. SESA SAI, J

June 22, 2015

Pn

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

WRIT PETITION No.18150 of 2015

-

June 22, 2015

Pn