

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

**WRIT PETITION Nos.2646, 2804, 2805, 4726 and 20888 o
2011**

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

These writ petitions are preferred against the orders passed by the A.P. Administrative Tribunal whose jurisdiction was invoked by the respondent-applicants to declare the action of the petitioners herein in not selecting and appointing them as School Assistants in different disciplines, even though they had secured more marks than those who were appointed, on the ground that they had appeared for the final year of the qualifying academic examination in the month of June 2009, and not in May, 2009.

In its order in O.A.No.11356 of 2009 dated 02.09.2010 (the order under challenge in W.P.No.2646 of 2011) the Tribunal held that persons, who appeared for the qualifying examination after May 2009, were also issued appointment orders; and the applicants were, however, not issued orders of appointment. The petitioners were directed to issue appointment orders to the respondent-claimants for the post of School Assistant as per merit and as per Rules. Following the order passed in O.A.No.11356 of 2009 dated 02.09.2010, several other O.As. were also disposed of by the Tribunal, and the petitioners herein were directed to issue appointment orders in the respective subjects on production of the provisional certificate of passing the qualifying examination.

In the exercise of the powers conferred by Article 309 of the Constitution of India read with Sections 169 and 195 of the A.P.Panchayat Raj Act, the third proviso to Section 74 of the A.P. Municipalities Act and Sections 78 and 99 of the A.P. Education Act, amendments were made to the A.P. Direct Recruitment for the posts of Teachers (Scheme of Sections) Rules, 2008 (for short "the Rules") issued earlier in

G.O.Ms.No.161 dated 06.12.2008. The amendment to the Rules were notified in G.O.Ms.No.28 dated 29.01.2009.

The amendment to Rule 6 of the Rules required candidates, who were going to appear for the final year of the qualifying academic or qualifying professional courses examinations of recognised institutions to be held by May 2009, also to be permitted to apply for the post of Secondary Grade Teachers/School Assistants/ Physical Education Teachers/Language Pandits/School Assistants/Physical Education Teachers/Language Pandits subject to fulfilling all other conditions and on production of a "Bonafide Certificate" issued by the Principal of the Institutions in which they were studying, duly specifying that the candidate "is a final year student of course for which the final exam is scheduled for (month) 2009". Under the proviso to Rule 6 of the Rules, all such candidates were required to produce their degree certificates at the time of final selection/counselling as per the schedule declared by the Director of School Education, A.P., Hyderabad.

In view of the elections held in April/May 2009, not only was the counselling scheduled to be held in June, 2009 postponed to 15.10.2009, the final year examinations, in various colleges affiliated to the Andhra University, scheduled to be held in May, 2009 were also postponed and held in June 2009. The fact, however, remains that all the respondent-applicants appeared in the examination held in June 2009, obtained their degree certificates, and produced them at the time of final selection/counselling held on 15.10.2009.

Learned Government Pleader for Services would fairly state that the required certificates were produced by the respondent-applicants when they appeared for counselling on 15.10.2009; and while one of the respondent-applicants was even issued an appointment order, and the others were not, even this appointment order was subsequently cancelled since the final year examination, in which they appeared, was in June 2009, and not in May 2009.

When the Rules were amended and notified in January 2009, neither the petitioners herein nor the respondents could have been aware that the examination scheduled to be held in May, 2009 would be postponed by a month. It is not in dispute that the very same examination scheduled to be held in May 2009, was postponed because of the general elections, and was held in June 2009. It is for the very same reason that the counselling, for selection and appointment of School Assistants, was also postponed from June, 2009 to 15.10.2009. The proviso to the amended Rule 6 of the Rules only required the candidates to produce their degree certificates at the time of final selection/counselling. Once it is admitted that these degree certificates were produced at the time of final counselling, it does not stand to reason that the respondent-applicants should be denied appointment on the ground that the examinations were not held in May 2009, but in June 2009. In fact, the last limb of Rule 6 of the Rules itself leaves the month, in which the final examination is scheduled to be held, blank. In any event postponement of the examinations was not on account of the respondent-applicants but for reasons beyond their control as the Andhra University had, itself, postponed the examinations from May to June 2009.

The petitioners herein have illegally denied the respondents-applicants appointment on the basis of their merit in the qualifying examination and in the counselling held on 15.10.2009. We see no reason, therefore, to interfere with the order of the Tribunal. As the petitioners herein have had the benefit of an order of stay during the pendency of proceedings before this Court, it would suffice if the time prescribed by the Tribunal is modified and the petitioners herein are directed to comply with the order of the Tribunal within two months from today.

Subject to the extension of the time limit as stipulated hereinabove, all the writ petitions fail and are accordingly dismissed. Miscellaneous petitions pending, if any, shall also

stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

16th April 2015.
JSU

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Date: 16.04.2015

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