

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.4887 of 2009

Dated 28th July, 2015

Between:

Mrs.B.Jayalakshmi and others

...Petitioners

And

Hyderabad Regional Conference, rep.by its Chairman, Methodist
Church of India, Hyderabad and others

...Respondents

Counsel for the petitioners: Sri P.Venkata Rama Sarma
for Dr.P.B.Vijaya Kumar

Counsel for respondent No.6: Sri R.N.Reddy

The Court made the following:

ORDER:

This writ petition is filed by retrenched teachers of the unaided private educational institutions, which are arrayed as respondent Nos.2 and 3, for a mandamus to declare the inaction of the respondents in paying terminal benefits, including EL encashment, Gratuity, Provident Fund dues, difference of salary as per the Government scales by applying PRCs from time to time and also the difference of salary from the date of appointment till termination as arbitrary and illegal.

Though Sri D.V.Sitaram Murthy, learned Senior Counsel, and Sri A.Venkata Ramana, learned counsel, have filed appearance for respondent Nos.2 and 3, no one appeared at the time of hearing, both on 22.07.2015 and also today.

At the hearing, the learned counsel for the petitioners placed reliance on Rule 7(4) of the A.P.Educational Institutions

(Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987 which reads as under:

“(4) **Payment of salaries to staff:-** The educational agency of any private institution shall pay salaries to its staff as per the Government scales of pay and by following such procedure as may be prescribed by Government from time to time, in this regard.”

The learned counsel also submitted that as per the termination proceedings issued by respondent No.2, the dues such as arrears, PF and Gratuity will be paid as per the eligibility on submission of necessary certificates.

It is somewhat surprising that though the petitioners' services were terminated in the year 2006, they have not approached the respective managements with proper representations ventilating their grievances. Instead, they have straightaway approached this Court seeking a mandamus. The law is well settled that before invoking the jurisdiction of this Court under Article 226 of the Constitution of India for a mandamus, the aggrieved party needs to first approach the State or any other agency demanding justice (See **Kamini Kumar Das Choudhury vs. State of West Bengal**^[1] and **Amrit Lal Berry, K.N.Kapur vs. Collector of Central Excise, New Delhi**^[2]).

The petitioners have not offered any explanation whatsoever for not approaching respondent Nos.2 to 4 and demanding payment of arrears, PF etc., by producing no due certificates as per proceedings, dated 01.09.2006. Unless the petitioners first exhaust this remedy, it is not permissible for them to invoke the jurisdiction of this Court.

In this view of the matter, while declining to adjudicate the grievances of the petitioners on merits, they are permitted to make detailed representations to respondent Nos.2 to 4 supported by relevant material. Within two months of receipt of such representations, respondent Nos.2 to 4 shall take appropriate decision and communicate the same in writing to the petitioners. If the

petitioners feel aggrieved by such decision, they shall be free to avail appropriate remedy in accordance with law.

Subject to the above observations and directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.13414 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

28th July, 2015
VGB

[\[1\]](#) AIR 1972 SC 2060

[\[2\]](#) AIR 1975 SC 538