

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

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURT

Writ Petition No.12859 of 2015

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

Sri K.Rama Subba Rao, learned counsel, submits that he has entered appearance on behalf of the 3rd respondent.

Heard Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners, the learned Government Pleader for Services appearing for respondents 1 and 2 and Sri K.Rama Subba Rao, learned counsel for the 3rd respondent; and, at their request, the writ petition is disposed of at the stage of admission.

The petitioners herein challenged the validity of amendment made to the A.P. Intermediate Education Service Rules notified in G.O.Ms.No.302 dated 30.12.1993 by G.O.Ms.No.63 dated 19.07.2013. They are aggrieved by the order of the Tribunal directing them to implead the State Junior Lecturers (Vocational) Associations by any name they are styled from both the present States together with acting individual Junior Lecturers (Vocational) as party respondents in the O.As. by filing separate Miscellaneous Petitions. The Tribunal further observed that, after they are impleaded as unofficial party respondents, it would then have to order notice to them as well as general notices in representative capacity by following the procedure prescribed in Order I Rule 8 C.P.C.

Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners, would submit that the applicants are not even aware of the existence of the so called State Junior Lecturers (Vocational) Association; what was under challenge before the Tribunal was the validity of the amended Rules notified in G.O.Ms.No.63 dated 19.07.2013; these Rules, made in the exercise of powers conferred under the proviso to Article 309 of the Constitution of India, are legislative in character; as the validity of the Rule

is subjected to challenge, it is only the rule making authority which is a necessary party; it is wholly unnecessary for all the persons, who are likely to be affected by the Rule possibly being struck down later, to be arrayed as respondents in the O.A.; and the Tribunal had erred in directing the petitioner-applicants to implead all possible parties, who may be affected in future if the amendment is struck down, as party respondents in the O.A.

Both the learned Government Pleader for Services and Sri K.Rama Subba Rao, the learned counsel for the 3rd respondent, would submit that none of them had made any such request nor had they contended that the O.As. were liable to be dismissed for non-joinder of parties; all that the respondents had requested the Tribunal was that the O.A. be heard and decided early, as an order of *status quo* was passed earlier; and the Tribunal ought to have decided the O.A. on its merits, instead of directing all parties, who may possibly be affected by the amendment of the Rule being struck down later, to be arrayed as respondents.

In ***General Manager, South Central Railways, Secunderabad vs. A.V.R.Sidhanti***^[1] the Supreme Court observed that:

“.....As regards the second objection, it is to be noted that the decision of the Railway Board impugned in the writ petition contain administrative rules of general application, regulating absorption in permanent departments, fixation of seniority, pay etc. of the employees of the erstwhile Grain-Shop departments. The Respondents-petitioners are impeaching the validity of those policy decisions on the ground of their being violative of Arts. 14 and 16 of the Constitution. The proceedings are analogous to these in which the constitutionality of a statutory rule regulating seniority of Government servant is assailed. In such proceedings the necessary parties to be impleaded are those against whom the relief is sought, and in whose absence no effective decision can be rendered by the Court. In the present case, the relief is claimed only against the Railway which has been impleaded through its representative. No. list or order fixing seniority of the petitioners vis-à-vis particular individuals, pursuant to the impugned decisions, is being challenged. The employees who were likely to be affected as a result of the re-adjustment of the petitioner’s seniority in accordance with the principles

laid down in the Board's decision of October 16, 1952, were, at the most, proper parties and not necessary parties, and their non-joinder could not be fatal to the writ petition....." (emphasis supplied)

This judgment was followed by the Supreme Court in ***A.Janardhana vs. Union of India***^[2].

The law, declared in the aforesaid judgments, is that, where the validity of a Rule is subjected to challenge, it is only the Rule making authority or the executive which is a necessary party; and all others, who may be affected thereby, can at best be treated as proper parties, and their non-joinder is not fatal to the proceedings before the Tribunal. While the persons, who may possibly be affected by the challenge to the Rule, could also have impleaded themselves as parties to the O.A, just like 3rd respondent has, that does not justify the Tribunal directing all those, who are likely to be affected, to be arrayed as respondents.

In the light of the law declared by the Supreme Court in the aforesaid judgments, the order under challenge in this writ petition is set aside. While both Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners, and Sri K.Rama Subba Rao, learned counsel for the 3rd respondent, would request this Court to specify a time frame within which the O.A. should be disposed of, we have no reason to doubt that the Tribunal would accede to our request, and decide the O.A. with utmost expedition.

The writ petition is, accordingly, disposed of. 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

29th April 2015.
JSU

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

And

[illegible]

[1]

[2]