

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6565 OF 2002

ORDER:

This writ petition is filed seeking to issue a writ of *Mandamus* to declare the action of the respondents in not according permission to the petitioner School to fill up the post of B.Ed., Assistant (Maths) (Telugu Medium) as illegal and arbitrary, and consequently, to direct the respondents to accord permission to fill up the said post.

2. Case of the petitioner is that one Y.M.Basavaraj worked as Head Master in the petitioner School and retired from service on attaining the age of superannuation on 30.6.2001. One C.Nagaraj, senior most B.Ed., Assistant, was appointed as Headmaster in the said vacancy with effect from 01.07.2001. Consequently, the post of B.Ed., Assistant (Maths) (Telugu Medium) fell vacant. The petitioner School submitted proposals to respondent No.4 through proper channel to accord permission to fill up the vacant post of B.Ed., Assistant (Maths) (Telugu Medium). Respondent No.6, in pursuance of the said proposals, enquired into and submitted a report to respondent No.5 duly recommending to permit the petitioner School to fill up the said post.

Respondent No.6 requested respondent No.5 to forward the said proposals to respondent No.4, but no action has been taken. The students were not able to face the public examinations, as there was no teacher to teach the subject concerned. The Management engaged the services of outsiders to teach the students in their interest. Taking into consideration all these circumstances, respondent No.6 requested respondent No.5 to take necessary action forthwith. Aggrieved by the action of the respondents in not according permission to the petitioner School to fill up the post of B.Ed. Assistant (Maths)(Telugu Medium), the present writ petition is filed.

3. Counter-affidavit is filed by the respondents wherein it is stated that respondent No.6 forwarded the said proposals to respondent No.5, who in turn examined the proposals, as per the Rules in vogue, and found that the proposals are not in complete shape, and returned the same to respondent No.6 due to the following defects vide office Proceedings Rc.No.4174/B3/2002, dated 18.4.2002.

- i. Need is not justified for filling up of the post as per the staffing pattern prescribed in G.O.Ms.No.49 Education dated 26.2.1998.*
- ii. Proposals were submitted in format prescribed with the signature of the Headmaster incharge. As per existing rules, the correspondent should submit the proposals.*
- iii. The proposals should be in triplicate but proposals were submitted with Xerox copies.*
- iv. The Inspecting Officer should attest all enclosures.*
- v. The Inspecting Officer's remarks are not consisting whether the said post as proposed to fill-up by direct recruitment or by promotion.*
- vi. If the Management has proposed to fill up post by direct recruitment, to inform whether any qualified SG.Asst./L.P.Gr-II are working for promotion as School Assistant.*
- vii. If there are qualified SG.Asst. are working in the institution, furnish the reasons for submitting the proposals for filling up of the post by direct recruitment.*
- viii. Copy of the Govt.Order wherein the post was admitted into grant-in-aid.*
- ix. Work load of vacant post.*
- x. Copy of permanent recognition orders.*
- xi. Staff particulars."*

In turn, respondent No.6 returned the proposals to the petitioner for submission of the information on the above items except S.Nos.(iv) and (v) in Procs.Rc.No.Spl.1/2002-2003, dated 31.5.2002, under proper acknowledgment, but the petitioner has failed to resubmit the proposals with the required information. The said proposals were returned within one month from resubmission with required information by procs.L.Dis.No.4174/B3/2002, dated 18.4.2002, of respondent No.5 through respondent No.6. The petitioner School has to resubmit the proposals along with required information/particulars as called for in the proceedings, dated 18.4.2002, of respondent No.5 for consideration and to take appropriate decision according to the Rules in force and hence, prayed to dismiss the writ petition.

4. Since it is seen from the counter-affidavit that the proposals sent by the petitioner School were returned within one month for resubmission with required information by proceedings, dated 18.4.2002, on the ground that there were some defects, the petitioner ought to have cured those defects and resubmitted the same, but instead of doing so, he filed the present writ petition.

5. In view of the above reason, it cannot be said that the respondents have not taken any action on the proposals sent by the petitioner. The petitioner submitted the said proposals in the year 2001. Now, it is not known as to whether the petitioner resubmitted the proposals to the respondents or not. Still, if the petitioner School is in need of filling up of the post of B.Ed. Assistant (Maths)(Telugu Medium), it can resubmit the proposals to the respondents and on such resubmission, the respondents shall consider the same and take appropriate action in accordance with law.

6. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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

JUSTICE A.RAJASHEKER REDDY

Date: 03.09.2015
AMD

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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