

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**MONDAY, THE EIGHTEENTH DAY OF JANUARY TWO
THOUSAND AND SIXTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.832 of 2016

Between:

E. Dhani, S/o. Khubya,
28 years, Attender, Kasturba Gandhi
Balika Vidyalaya (KGBV),
Gundlapalli, R/o. Gundlapalli,
Nalgonda District & 6 others

.. Petitioners

AND

The State of Telangana,
Rep. by its Principal Secretary,
School Education Department,
Secretariat, Hyderabad & 4 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.832 of 2016

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ORDER:

In this writ petition, petitioners are appointed on daily wage basis by Andhra Pradesh Residential Education Institutions Society (for short, 'Society') to work in Kasturba Gandhi Balika Vidyalayas (KGBVs). Such appointments dates back to two to ten years respectively to various capacities. The daily wage allowance payable to these petitioners are hitherto paid by the Society. By the Circular Instruction, dated 01.08.2015, impugned in this writ petition, the Society now directs payment of remuneration to the petitioners through Outsourcing Agency.

2. Heard learned counsel for the petitioners, learned Standing Counsel for Sarva Shiksha Abhiyan and learned Standing Counsel for Residential Education Institutions Society and with their consent, the writ petition is disposed of.

3. Issue raised in this writ petition was considered by this Court in W.P.Nos.26244 of 2015 & batch and decision was rendered on 17.12.2015. This Court held as under:

"Fundamental flaw noticed in this exercise is, Outsourcing Agency is not the employer of the petitioners and when the Outsourcing Agency is not an employer, there cannot be a direction to the petitioners to draw their remuneration through Outsourcing Agency. It is nothing but appointment of commission agent to distribute the remuneration payable to the petitioners. In the relationship of master and servant, the payment of remuneration is an essential requirement and until and unless the relationship is

terminated, the employer cannot shirk his responsibility of paying the wages and direct the employees to receive wages from Outsourcing Agency. It would only expose these employees to the mercy of such agency.

8. Justification for such entrustment given by the learned Standing Counsel for Sarva Shiksha Abhiyan is that the National Report on Second National Evaluation of KGBV Programme of Government of India (para 56.8) mandates that there should be periodical safety audit of KGBVs and no resident male staff should be allowed in KGBVs. It is not known how such objective can be achieved merely by asking the petitioners to draw their remuneration through Outsourcing Agency."

4. This Court held that the direction issued in circular, dated 01.08.2015, as not sustainable in law. Following the said decision, this Writ Petition is allowed. The direction issued in the impugned circular is not sustainable in law. I see no justification on the course adopted in the order impugned and the same is liable to be set aside and is accordingly set aside. Petitioners shall be paid their remuneration by the Management of KGBVs as long as their services are utilized. However, it is made clear that this order does not come in the way of Sarva Siksha Abhiyan regulating the employment in KGBVs by assigning priority to the safety and welfare of the girl students pursuing their education in KGBVs. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 18th January, 2016

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HON'BLE SRI JUSTICE P.NAVEEN RAO

[illegible]

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Date: 18th January, 2016

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