

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.38518 of 2015

ORDER:

Heard the learned counsel for petitioner and Sri G.Narender Reddy, learned Standing Counsel for respondents.

THE PETITIONER'S CASE

2. The petitioner was appointed as Mandal Coordinator in Mandal Praja Parishad, Parkal Mandal, Warangal District through proceedings No.A/19/2010 dt.16-08-2010. The post of Mandal Coordinator was filled up pursuant to G.O.Rt.No.203 Education (P.E.Prog.I) Department, dt.13-04-2010 on contract basis to assist the Mandal Lok Shiksha Samithi in implementing "Saakshar Bharat Programme" of the Government of India. The Mandal Coordinator would be initially engaged for a period of 6 months from the date of joining and thereafter extension would be obtained from the A.P.S.L.M.A. for further required period after reviewing the appointee's performance and subject to availability of funds. The remuneration to be paid is Rs.6,000/- per month as honorarium and he has to tour 20 days in a month, for which he would be paid Rs.500/- as fixed traveling allowance.

3. Petitioner's contention is that he worked continuously upto October, 2014, for which he has already been paid salary, but in November, 2014, the 3rd respondent started taking the services of one N.Kishore and stopped paying salary to petitioner. He contends that

he made a representation to the M.P.T.C., Nadikudi Village, Parkal Mandal, but there was no reply and since November, 2014 he has not been paid any salary. He contends that there is no order suspending him from services or terminating his services and even though petitioner had been going to the office of the 3rd respondent and requesting to take his services and pay salary, the 3rd respondent has not obliged. He states that he even made representation dt.16-10-2015 to the 3rd respondent, but 3rd respondent torn the representation of the petitioner. Petitioner contends that respondents cannot, without any valid reason, stop paying salary to petitioner and stop taking services of petitioner having appointed him as Mandal Coordinator and that respondents have to follow principles of natural justice if they wish to discontinue the services of petitioner.

COUNTER OF THE RESPONDENTS

4. Counter-affidavit was filed by respondents stating that petitioner worked till September, 2014 and he was paid salary for that month, but thereafter he was absent from his duties without prior intimation to 3rd respondent. It is stated that due to petitioner's unauthorized absence, notice dt.03-09-2014 was sent to him through an Office Subordinate directing him to join duties and when the Office Subordinate went to the house of petitioner for service of notice, neither the petitioner nor his family members were present. Mention is made about the attempts of 3rd respondent to serve notice on petitioner on 09-09-2014, 25-09-2014 and 29-09-2014.

5. On 02-10-2014, it is alleged that General Body Meeting of the Mandal Praja Parishad, Parkal was held in the presence of Mandal Level Committee including MPDO, MRO and MEO and President of Mandal Mahila Samakya under the Chirmanship of President, Mandal President, Parkal, Warangal District and it is contended that a decision was taken to remove the petitioner from the duties on account of his absence without intimation. It is also stated that a letter dt.07-10-2014 was sent by the 3rd respondent to the District Collector, Warangal stating that the petitioner was removed by passing of a resolution and that a decision was also taken to appoint a new Mandal Coordinator Mr.M.Natakishore and for issuance of directions in that regard, and that the District Collector gave discretion to the Mandal Committee to recruit Mandal Coordinator by proceedings dt.14-10-2014, and thereafter on 20-10-2014, the said Mr.M.Natakishore was appointed. Respondents rely on a representation dt.02-09-2015 made by petitioner for issuance of experience certificate and contend that petitioner did not state therein that he is willing to continue his work and therefore it is to be presumed, according to respondents, that petitioner was disinterested to continue as Mandal Coordinator. They contend that petitioner made a representation on 06-11-2015, after expiry of period of one year, requesting to provide employment and the said representation was therefore not acted upon.

6. Certain material papers were also filed by respondents relating to the appointment of the said Mr.M.Natakishore on 20-10-2014. In these material papers, notices dt.03-09-2014, 09-09-2014 and

25-09-2014 allegedly sent by 3rd respondent to the petitioner through the Office Subordinate are enclosed. They bear endorsement that neither the petitioner nor his family members were available in the house.

REPLY AFFIDAVIT OF PETITIONER

7. Reply affidavit was filed by petitioner contending that the petitioner was allowed to work till October, 2014 and paid salary till October, 2014 and thereafter only he was not allowed to work. Petitioner asserted that he was always already read to work and approached the respondents to allow him to work. He also denied the allegations that he or his family members were not available to take notice and stated that he was a native and permanent resident of Parkal village and Mandal and that the notices were concocted subsequently to buttress the case of respondents. It was also pointed out that the procedure for appointment and removal of Mandal Coordinator is governed by G.O.Rt.No.203 dt.13-04-2010 and no power was vested with the District Collector to confer any discretion on the Mandal Committee or any authority to recruit the Mandal Coordinator such as Mr.M.Natakishore in violation of the said G.O. Petitioner contends that the selection of Mandal Coordinators under G.O.Rt.No.203 should be through a notification and selection has to be done by sub-committee consisting of Mandal Parishad President, Mandal Parishad Development Office, Mandal Revenue Officer, Mandal Education Officer and President of Mandal Mahila Samakya and appointment orders have to be issued by the Member Secretary of

Mandal Lok Siksha Samithi, but while appointing Mr.M.Natakishore this procedure was not followed and therefore the appointment of the said individual is through backdoor and is illegal.

8. Learned counsel for petitioner and the learned Standing Counsel for respondents reiterated the contentions of their respective pleadings.

THE CONSIDERATION BY THE COURT

9. From the facts narrated above, admittedly the petitioner was appointed as Mandal Coordinator by proceedings dt.16-08-2010 of the 2nd respondent pursuant to G.O.Rt.No.203 Education (P.E.Prog.I) Department dt.13-04-2010.

10. While the petitioner contends that he was allowed to work upto October, 2014, a specific stand is taken in the counter-affidavit by 3rd respondent that petitioner worked only upto September, 2014.

11. The counter-affidavit, however, states that notices were issued on 03-09-2014, 09-09-2014, 25-09-2014 to the petitioner through the Office Subordinate asking the petitioner to report to duty. If the petitioner, as alleged by respondents, worked upto September, 2014 and he was paid salary for September, 2014, the story of respondents that the petitioner was issued notice on 03-09-2014 etc., cannot be accepted. This is because salary would not have been paid for September, 2014 in October, 2014 to the petitioner if he was not attending to his duty in September, 2014 and if he was attending to the

duties, then why notices dt.03-09-2014, 09-09-2014, 25-09-2014 were issued is inexplicable. The plea of respondents clearly indicates paying salaries for the months of September, 2014 and October, 2014. So their contention that petitioner was absent after September, 2014, is clearly a false plea. Also why the notices dt.03-09-2014, 09-09-2014, 25-09-2014 and 29-09-2014 were sent for service through Office Subordinate and not sent through Registered Post with Acknowledgment Due is also not explained and it looks as if an attempt is made to create an impression that petitioner was absconding to prejudice the mind of the Court against petitioner.

12. Moreover, the fact that Mr.M.Natakishore was appointed on 20-10-2014 without following the procedure prescribed in G.O.Rt.No.203 through the process of selection is also not denied by respondents. When the said G.O.Rt.No.203 contemplates the selection of a Mandal Coordinator by the Committee mentioned therein, reliance is placed by respondents on proceedings dt.14-10-2014 of the District Collector as justification for appointing Mr.M.Natakishore. This cannot be accepted since the said proceedings of the District Collector make a reference to G.O.Rt.No.203 and directs the appointment to be made only in accordance with the said G.O.Rt.No.203. Therefore the Court has no choice to come to conclusion that Mr.M.Natakishore's appointment on 20-10-2014 was blatantly illegal and contrary to the procedure prescribed in G.O.Rt.No.203.

13. No doubt, appointment of petitioner as per G.O.Rt.No.203 is initially for a period of 6 months and later his services are to be extended after reviewing his performance and subject to availability of funds. But in the present case, the petitioner had been allowed to continue from the date of his appointment on 16-08-2010 till 31-08-2014, and the plea of absence of petitioner in September, 2014 raised by respondents is false as explained above. Therefore it is clear that non-engagement of the petitioner after September, 2014 is clearly *mala fide* and is violative of Article 14 of the Constitution of India and also violative of principles of natural justice.

14. Therefore, the Writ Petition is allowed, and respondents are directed to engage the services of petitioner as Mandal Coordinator in Parkal Mandal, Warangal District forthwith, pay him salaries for the period from November, 2014 till date of his reengagement within six (06) weeks from the date of receipt of a copy of this order. The 2nd respondent shall also pay costs of Rs.10,000/- (Rupees Ten Thousand only) to petitioner.

15. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-11-2016
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