

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6300 of 2007

ORDER:

The petitioner institution was started with classes 1 to 5 in the year 1973. Thereafter, after obtaining permission to establish High School, classes 6 to 10 were opened during 1983 to 85. The Government took a policy decision in Memo No.78/SSE.I/89-9 Education Department dated 24.02.1990 stating that the schools established after 01.09.1985 but before 01.04.1997 alone are eligible to receive grant-in-aid, provided the Committee constituted in G.O.Ms.No.220 Education Department dated 24.02.1988 accept the recommendations. The application of petitioner institution for admitting the posts was placed before the High Level Committee, which recommended for grant-in-aid. Respondent No.1 after receiving recommendations of the High Level Committee accepted the same in respect of 30 schools including the petitioner institution and issued G.O.Ms.No.143 Education Department dated 16.12.2003 wherein the name of petitioner was shown at Serial 18. In the said proceedings, grant-in-aid was approved for the posts of one School Assistant and two Secondary Grade Teachers. The said three posts were already filled up by obtaining approval from the competent authority in proceedings D.Dis.No.1110/B3/2001 dated 02.04.2001. The persons were appointed as per the norms prescribed by respondent No.1. But, when the Government issued G.O.Ms.No.143 dated 16.12.2003 holding that the grant-in-aid would be made applicable only with effect from the date of approval of appointment made to the said unaided posts by the competent authority, the present writ petition was filed stating that three posts for which the persons selected were appointed after approval from the competent authority, and hence, the grant-in-aid should have been made

applicable from the date of their appointment on 02.04.2001. Challenging the condition imposed in G.O.Ms.No.143 dated 16.12.2003 making it applicable with effect from the date of issue of the said order subject to the conditions mentioned therein, the present writ petition was filed.

Though a counter affidavit is filed on behalf of respondents 1 to 4, counter affidavit was signed by the District Educational Officer, Kadapa. In spite of giving time on 10.03.2016, respondent No.1 did not choose to file counter affidavit.

It is clear from the above facts that the three posts for which grant-in-aid sanctioned was already approved by the competent authority in proceedings D.Dis.No.1110/B3/2001 dated 02.04.2001 and their appointment was already approved. In a case of such approved appointment, respondent No.1 should not have made it applicable from the date of issue of the order. Even otherwise also, a perusal of the condition (k) of the said G.O. dated 16.12.2003, which reads as follows, was fulfilled in the case of the petitioner.

“Though Posts are admitted to Grant, the District Educational Officer should release funds only when the qualified persons hold the posts and the appointment approved by the Competent authority as per rules, in vogue.”

The petitioner also relied on G.O.Rt.No.573 Education Department dated 22.08.2006 admitting the grant-in-aid to certain posts of one Mittamalleswara Swamy Oriental High School, Pulivendula, Cuddapah District from the date of approval of selection of the candidates.

Learned counsel for the petitioner submits that a discrimination is meted out to the petitioner while issuing G.O.Ms.No.143 dated 16.12.2003.

In the circumstances, this Writ Petition is allowed directing respondent No.1 to release grant-in-aid to three posts which were admitted to grant-in-aid from the date of approval of their appointment

by the competent authority on 02.04.2001 instead of from the date of issuance of G.O. on 16.12.2003. No order as to costs.

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

A.RAMALINGESWARA RAO, J

07.04.2016

MVA