

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION Nos.19527 & 19528 OF 2009

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COMMON ORDER:

Since these two writ petitions share similar grievance, this Court deems it appropriate to dispose of these writ petitions by way of common order.

2. Heard Sri Nanduri Sriram, learned counsel, appearing for the petitioners, learned Government Pleader for Social Welfare and Revenue, appearing for the respondents.

3. Petitioners, in these two writ petitions, are the Degree and Junior Colleges at West Marredpally, Secunderabad. The District Collector, while stating that an excess amount of Rs.99,76,099/- was sanctioned towards Tuition fee to Scheduled Caste students of various colleges functioning in Hyderabad District, by way of proceedings Rc.No.A2/692/2006, directed the petitioners herein to remit a sum of Rs.68,240/- and Rs.2,11,396/- respectively.

4. Subsequently, vide Rc.No.A2/692/2006, dated 05.07.2008, once again the District Collector – 3rd respondent herein, requested the petitioners to remit the said amounts. Thereafter, vide Lr.No.B1/3395/2009, dated 29.06.2009, the District Collector, Hyderabad – 3rd respondent herein, requested the 4th respondent – Tahsildar, Tirumalgerry, Secunderabad, to recover the above said mentioned amount under the provisions of Revenue Recovery Act. As a consequence of the same, the Tahsildar, served an order of distraint dated 28.07.2009 and on 04.08.2009 and seized certain items of the petitioners colleges and kept the same under the custody of the college.

5. Subsequently, the petitioners herein submitted representation dated 18.08.2009, stating that the tuition fee sanctioned by the Social Welfare Department was disbursed to the scheduled caste students and obtained their acknowledgments, as such, the Management was not responsible for erroneous sanction by the Social Welfare Department; and that the colleges did not claim any amount towards tuition fee sanctioned by the Social Welfare Department for the scheduled caste students and that is the Social Welfare Department, who sanctioned the tuition fee as per the rules pursuant to the policy of the Government; and that the tuition fee so sanctioned was paid to the scheduled caste students then and there. In the said representation, the petitioners further stated that fastening responsibility on the Management for the erroneous actions of the Social Welfare Department is highly illegal and the Management is no way concerned with the sanction of tuition fee to the scheduled caste students and that the colleges only disbursed the amounts received from the Social Welfare Department to the scheduled caste students for the relevant period. In the said representation, petitioners herein further requested the respondents to release the seized property.

6. This Court, while ordering '*Rule Nisi*' on 15.09.2009, in W.P.M.P.No.25500 of 2009 in W.P.No.19527 of 2009 and W.P.M.P.No.25501 of 2009 in W.P.No.19528 of 2009, granted interim direction to the respondents to release the seized movables i.e., Computers, furniture etc.

7. A counter affidavit is filed, justifying the action on the part of the respondents.

8. As seen from the material available on record, the respondent authorities before resorting to the impugned action of directing the petitioners to remit the amounts alleged to have been paid in excess, did not issue any show-cause notice nor afforded any opportunity of

being heard to the petitioners herein.

9. It is a settled and well established proposition of law that any action which has civil consequences is required to be preceded by notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, adherence to the said proposition of law is conspicuously absent. The same is sufficient for declaring the impugned order as untenable and unsustainable.

10. It is also required to be noted that the petitioners herein, subsequent to the impugned action and the consequential distraint orders passed by the respondent authorities, submitted elaborate representation, pointing out various aspects, which have direct bearing on the issue in the present writ petitions.

11. Therefore, having regard to the nature of controversy and in the facts and circumstances of the case, this Court is of the considered opinion that the ends of justice would be met, if the matters are remanded to the respondents for fresh consideration, after giving notice and opportunity of being heard to the petitioners herein.

12. For the aforesaid reasons, Writ Petitions are allowed, setting aside the proceedings Rc.No.A2/692/2006, dated 05.07.2008, issued by the 3rd respondent and File No.C/699/07, dated 28.07.2009, issued by the 4th respondent and the matters are remanded for fresh consideration to the respondents herein for passing appropriate orders, after giving notice and opportunity of being heard to the petitioners. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

13. Miscellaneous petitions pending consideration, if any, in these Writ Petitions shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

16.06.2016
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