

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.22956 OF 2011

ORDER:

The petitioner society was running a high school under the name and style of Sri Malayala Swamy Oriental High School, Uyyalapally, Kaluvoya Mandal, Nellore District since 1982. Initially, it was started for classes from I to VII, which was recognized by the Government. Subsequently, the said institution was upgraded up to X Class. The institution was admitted to grant-in-aid by the Government vide G.O.Ms.No.178, dated 01.11.1989, and nine posts were admitted to grant-in-aid. Since there was need for two more posts, one SGT and one Hindi Pandit Grade-II, the society appointed two teachers in unaided section. Consequently, unaided SGT post was absorbed into grant-in-aid on 31.03.2003 after approval from the competent authority. One

Sri V.Sreenivasula Reddy was appointed on 01.04.2003 and he was discharging duties in the post of SGT for the last six years. In the mean while one SGT post had fallen vacant consequent to the death of S.Penchala Reddy on 29.07.2008 and in the circumstances, the petitioner addressed a letter to the 1st respondent on 18.08.2008 requesting for absorption of SGT working in unaided section to aided section in the existing vacancy. Consequently, it also made further request to accord permission to fill up the vacant post along with one more vacant post of Sanskrit Pandit, consequent to the retirement of the incumbent. As no orders were passed, the present writ petition was filed.

Counter affidavit was filed stating that the Government took a policy decision to impose ban on creation and filling up of aided posts in the recognized aided schools vide Government Memo No.12080/COSE/A2/2004 Education, dated 20.10.2004. In view of the said Memo, it was stated that the required permission was not accorded.

Learned counsel for the petitioner submitted that the said memo dated 20.10.2004 was set aside by this Court in **Netaji Memorial Educational Society, Vijayawada, rep. by its Secretary and Correspondent, Sri**

K.Chalapathi Rao and others^[1].

Learned Government Pleader submitted that against the said decision W.A.No.216 of 2014 was filed, wherein a Division Bench of this Court in W.A.M.P.No.663 of 2014, dated 25.02.2014 passed an order giving liberty to the Management of the Institution to appoint teachers, for which temporary permission shall be granted by the authorities within seven days. But it was made clear that the said permission shall not be taken advantage by the Management at the time of hearing the appeal. It was also made clear that appointee shall be given appointment orders subject to the result of the appeal only. He further submitted that against the said interim order, the matter was carried to the Supreme Court and the Supreme Court, dismissed the appeal.

The order of the Division Bench in W.A.M.P.No.663 of 2014 in W.A.No.216 of 2014 reads as follows:

“Therefore, considering the balance of convenience, we feel that the respondent-management will be free to appoint teachers and for this purpose, temporary permission must be granted within seven days from the date of receipt of this order. This factum of granting permission should not be given any weightage or advantage in favour of the respondent at the time of hearing of the appeal. Everything will abide by the result of the appeal. Once the permission is granted, the respondent-management will be free to appoint teachers in accordance with the rules and for the time being, the salary of the teachers shall be borne by the management. It shall also be notified to the appointees that this appointment will be subject to the result of the appeal.”

In terms of the order dated 25.02.2014 of the Division Bench in W.A.M.P.No.663 of 2014 in W.A.No.216 of 2014, this writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATE 31.03.2016

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[\[1\]](#) 2013(5) ALT 783