

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

**WRIT PETITION No.14435 of 2007**

**ORDER:**

This writ petition, filed under Article 226 of Constitution of India, challenges the order passed by the 1<sup>st</sup> respondent-Board of Intermediate Education vide proceedings Rc.No.1330652/E4-1/2007-08, dated 07-06-2007.

Heard Sri C.V. Bhaskar Reddy, learned counsel for the petitioner, Smt.M. Siva Jyothi, learned Standing Counsel for 1<sup>st</sup> respondent, learned Government Pleader for Higher Education for respondent No.2 and learned Government Pleader for Social Welfare for respondent Nos.3 to 5, apart from perusing the material available before this Court.

The 1<sup>st</sup> respondent- Board of Intermediate Education issued a show cause notice bearing Rc.No.1330652/E4-1/06-07, dated 23-01-2007, directing the petitioner to show cause as to why it should not be disaffiliated for the alleged gross violation and disobedience to the instructions issued by the Government and the Board.

Responding to the said show cause notice the petitioner herein submitted an explanation on 27-02-2007. Thereupon the 1<sup>st</sup> respondent, by way of an order vide proceedings Rc.No.1330652/E4-1/2007-08, dated 07-06-2007 had withdrawn the affiliation/recognition of the petitioner institution. The said order of disaffiliation is under challenge in the present writ petition.

It is contended by learned counsel for the petitioner that the

questioned order is highly illegal, arbitrary and violative of principles of natural justice and contrary to the A.P. Intermediate Education Act, 1971. It is further submitted that the 1<sup>st</sup> respondent – Board failed to consider the explanation offered by the petitioner institution and the said action is violative of principles of natural justice. It is the further submission of learned counsel that had the explanation offered by the petitioner been considered by the 1<sup>st</sup> respondent from proper perspective the order impugned in the present writ petition would not have emanated.

Per contra, it is submitted by learned Standing Counsel for Board of Intermediate Education and the learned Government Pleader that there is no illegality nor any infirmity in the impugned order, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for nay relief under Article 226 of the Constitution of India.

In the above backdrop now the question that emanates for consideration of this Court is:

*Whether the impugned order, dated 07-06-2007 passed by the 1<sup>st</sup> respondent is sustainable and tenable in the eye of law?*

The information available before this Court manifestly discloses that in response to the show cause notice, dated 23-01-2007 issued by the 1<sup>st</sup> respondent - Board of Intermediate Education, the petitioner herein submitted a detailed explanation on 27-01-2007, running into eight (8) pages, making various submissions. A reading of the impugned order, dated 07-06-2007 makes it very much evident that except indicating the explanation

offered by the petitioner as one of the references in the impugned order, the 1<sup>st</sup> respondent - Board of Intermediate Education failed to advert the contents of the elaborate explanation offered by the petitioner. This action, in the considered opinion of this Court, cannot be sustained in the eye of law and is a flagrant violation of principles of natural justice. If the said action is tested on the touchstone of Article 14 of Constitution of India, this Court will have no other option except to set aside the impugned order.

For the aforesaid reasons, the writ petition is allowed, setting aside the proceedings Rc.No.1330652/E4-1/2007-08, dated 07-06-2007 of the 1<sup>st</sup> respondent and the matter is remanded to the 1<sup>st</sup> respondent - Board of Intermediate Education for consideration of the issue afresh, if it chooses to do so, after giving notice and opportunity of being heard to all the stake holders. There shall be no order as to costs.

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

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**A.V. SESA SAI, J**

February 10, 2016

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

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