

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT APPEAL No. 452 OF 2016

29-06-2016

Between:

Government of A.P., rep., by its Secretary, Education Department,
Secretariat, Hyderabad and others

... Appellants

And

Sri Malayala Swamy Sanskrit Upper Primary School, rep., by its
Correspondent V. Ramanaiah, S/o. Kamakshaiah, r/o. Uyyalapalli,
Uyyalapalli village, Kaluvay Mandal, Nellore District

... Respondent

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO
-
WRIT APPEAL No. 452 OF 2016

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned Government Pleader for the appellants. None appears for the respondent though served. Even on two earlier occasions, none appeared for the respondent.

This appeal is directed against the order dated 24-11-2009 passed in Writ Petition No. 35295 of 1998, whereby respondent – institution called in question the order of rejection of their case for release of grant-in-aid from the date of its entitlement i.e., 01-06-1985, in terms of G.O.Ms.No.238, dated 27-05-1986 with all consequential benefits including arrears, and seeking action of respondents in releasing grant-in-aid to the institution only from 01-11-1989 vide G.O.Rt.No.178, dated 23-07-1990 and rejecting their claim for the period prior to 01-11-1989 vide proceedings dated 10-10-1998 as illegal and they prayed for setting it aside for the earlier period i.e., prior to 01-11-1989, by Commissioner and Director of School Education, Andhra Pradesh, Hyderabad.

Learned single Judge while disposing of the writ petition issued following directions in the concluding paragraph of the order:

“In the circumstances, I consider it appropriate to direct the respondents to reconsider the entire matter and based upon the recommendations made by the inspection committee, and to take a decision for admitting the nine posts of teachers under it with effect from 01.06.1986 and

communicate such a decision to the writ petitioner school within a maximum period of six months from today. If the committee has already made a recommendation in its favour based upon which the nine posts of teachers were admitted to grant-in-aid with effect from 01.11.1989 then such posts should be reconsidered for being admitted to grant-in-aid with effect from 01.06.1986 and the arrears paid to such teachers for the period between 01.06.1986 to 01.11.1989 within a maximum period of six months from the date of the decision taken by the respondents in that respect.”

Learned Government Pleader submits that the appellants are ready to reconsider the entire matter as indicated in the concluding paragraph of the order, and if for any reason the respondent – institution and/or the nine posts of teachers are not entitled for grant-in-aid, they may be allowed to pass such order.

We have perused the order. The direction to reconsider the entire matter, in our opinion, means that it is open to the concerned authority to even reject the claim if for any reason they find that the institution or the nine posts of teachers cannot be admitted to grant-in-aid and for passing such order, they will have to record reasons. Having regard to the fact that the writ petition was filed in 1998, we deem it appropriate to direct the concerned authority to grant an opportunity of being heard to the respondent – institution, if the concerned authority is of prima facie opinion that they are not entitled to grant-in-aid, before passing final order. It is made clear that we have not set aside any part of the order passed by learned single Judge, except the clarification made as above.

With these observations, writ appeal is disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

P. NAVEEN RAO, J

29-06-2016
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