

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND**

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Appeal Nos.650, 651 & 653 of 2016

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Dated 08th August, 2016

Between:

Matrusri Education Society and another

.....Petitioners

And

K.Srikanth and another

.....Respondents

Counsel for the petitioner: Sri D.Jagan Mohan Reddy

Counsel for Respondent No.1: Dr. P.B.Vijaya Kumar

Counsel for Respondent No.2: Sri Deepak Bhattacharjee

The Court made the following:

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
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Writ Appeal Nos.650, 651 & 653 of 2016

COMMON JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Respondent Nos.1 and 2 in W.P.Nos.18566, 18564 and 18567 of 2014 filed these three writ appeals against separate but identical orders passed by a learned Single Judge in vacate stay applications filed for vacating the interim orders granted in favour of respondent No.1-employee in each of these writ appeals.

Since the writ appeals arise out of interlocutory applications, we need not refer to the facts in detail. It will suffice to note that by

separate but similar orders passed on 30.06.2014, the services of respondent No.1 in these writ appeals as Associate Professor/Assistant Professor were terminated on the ground that the appellants decided to close MCA course from the following academic year. The terminated employees have filed writ petitions, wherein separate interim orders were passed for their continuance. The vacate stay applications filed by the appellants were dismissed on the only reason that since the orders of termination were under challenge in the writ petitions, interim suspension of termination orders cannot be vacated without hearing and disposing of the writ petitions.

Sri D.Jagan Mohan Reddy, learned counsel for the appellants, submitted that his clients were forced to terminate the services of respondent No.1 in each of these writ appeals as Associate Professor/Assistant Professor as they proposed to close the MCA course itself. He has further submitted that though at the time when their termination was made, the appellants did not obtain permission, subsequently on 09.04.2015, the Osmania University has granted permission for closure of the course and the same was followed by the permissions granted by the State Government and AICTE on 12.06.2015 and 18.07.2015 respectively.

Dr.P.B.Vijay Kumar, learned counsel for respondent No.1 in these writ appeals, strenuously submitted that under Section 83 of the A.P.Education Act, 1983 (for short 'the Act') prior permission of the State Government is a *sine qua non* for retrenchment of the employees and that admittedly when the orders impugned in the writ petitions were passed, no such permission was obtained by the appellants. He has also referred to and relied upon various judgments on the interpretation of Section 83 of the Act reference to which may not be necessary at this stage as the writ petitions are pending.

The short issue that needs to be addressed in these writ appeals is whether the orders of the learned Single Judge in making the interim orders absolute is sustainable or not.

A perusal of the orders under appeals shows that the learned Single Judge has not discussed the parameters, such as, *prima facie* case, balance of convenience and irreparable injury, which are essential for passing an interim order. Be that as it may, from the facts referred to above and which are not in dispute, respondent No.1 in these writ appeals were appointed as faculty members in the MCA department and the said department itself was closed. It is also an admitted fact that while termination was effected on 30.06.2014, the State Government has accorded formal approval of closing MCA course on 12.06.2015. The question whether approval of closure of the department amounts to tacit approval of retrenchment needs to be adjudicated in the writ petition. The submission of the learned counsel for respondent No.1 that various other faculty members, who were recruited for the MCA department, were re-deployed in other departments and that the same treatment was not meted to his clients needs to be adjudicated in the writ petitions. As of now, no foundation for this plea has been laid down by respondent No.1.

In these facts and circumstances, we are of the opinion that interests of both parties need to be balanced. Inasmuch as the MCA department itself has been closed, it may cast heavy burden on the appellants if this Court directs continuance of respondent No.1 pending the writ petitions. At the same time, since the appellants failed to obtain permission for termination of respondent No.1 as envisaged under Section 83 of the Act, the said respondents cannot be denied salary atleast till such time as the appellants have obtained permission for closure of the MCA department.

Without expressing conclusive opinion on the respective submissions of the learned counsel for the parties and various pleas which are required to be adjudicated in the writ petitions, the writ appeals are disposed of in the following terms:

- (1) The interim orders, dated 07.07.2014, which are made absolute on 13.07.2016, are modified by

directing the appellants to pay salaries to respondent No.1 in each of these writ appeals till 18.07.2015 on which date the AICTE has granted permission for closure of the MCA department, within one month from today and

- (2) Entitlement of respondent No.1 in each of these writ appeals for their continuance and payment of salaries for the subsequent period shall depend on the outcome of the pending writ petitions.

As a sequel to disposal of the writ appeals, pending interlocutory applications shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

08th August, 2016
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