

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.7453 of 2014
and
CONTEMPT CASE No.533 of 2014

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Date: 05.01.2016

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W.P.No.7453 of 2014:

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Between:

Dr. S.Radhika, W/o E.Suresh, Aged 28 years,
R/o. H.No.13-1-164, Pedhakapu Street,
Tirupathi, Chittoor District and two others.

.....Petitioners

And

Government of Andhra Pradesh, rep.by its
Principal Secretary, Higher Education Department,
Secretariat, Hyderabad and others.

.....Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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COMMON ORDER:

Petitioners are the candidates selected and recommended for appointment as contract lecturers in 6th respondent- College by the Regional joint Director of collegiate education, 3rd respondent. The 6th respondent college is one of the aided Colleges under the Management of Tirumala Tirupati Devasthanams. They are aggrieved by the inaction to grant appointment to them by the 6th respondent college. Petitioners instituted W.P.No.7453 of 2014 praying to grant direction to the 6th respondent to implement the proceedings of the 3rd respondent bearing Rc.No.1Spl/S1/2013, dated 24.12.2013 and to direct the respondents to enter into agreement with the petitioners forthwith. This court by order dated 19.03.2014 directed the 6th respondent to engage the petitioners as Contract Faculty in pursuant to the proceedings dated 24.12.2013 within a period of three days from the date of receipt copy of the order.

2. Alleging that the orders passed by this Court on 19.03.2014 is not complied, the petitioners filed C.C.No.533 of 2014. Tirumala Tirupati Devasthanam (TTD) filed W.V.M.P.No.928 of 2014 praying to vacate the interim orders granted on 19.03.2014.

3. Heard learned counsel for petitioners and learned standing counsel Sri Sivaraju Srinivas for TTD and with the consent of learned counsels, the writ petition and contempt case are disposed of by this

common order.

4. The facts which are relevant for consideration in this case are: on 14.11.2013 news item was published in the local newspaper informing all the concerned that decision is taken by the competent authority to fill up the posts of Lecturers in the colleges mentioned therein in Zone-IV on contract basis. The said paper news also includes the filling up of the vacancies in S.V. Oriental College in Tirupati. Petitioners herein responded to the said notification and in the selections conducted by the duly constituted selection committee, they were selected as Junior Lecturers in Telugu, Sanskrit and Sanskrit, respectively to the vacancies in 6th respondent college. The Regional Joint Director of Collegiate Education, Kadapa, vide his proceedings dated 24.12.2013, forwarded the list of five candidates list including three petitioners herein to the Principal of S.V. Oriental College, Tirupathi requesting him to engage the petitioners as Contract Faculty for the academic year 2013-2014. There was no further response from the TTD Administration and the Principal of S.V. Oriental College. Having waited for considerable time and as the academic year was coming to end soon; this writ petition was instituted on 11.03.2014.

5. Learned counsel for petitioners contended that once they were selected and recommended by the duly constituted selection committee, the same is binding on the TTD management and the petitioners ought to have been appointed. The selections were for the academic year 2013-14. Even though academic year was coming to end no steps were taken to appoint the petitioners. There was no justification for inordinate delay in appointing the petitioners. The delay in making appointment was deliberate and willful.

6. Learned counsel for petitioners contended that having notified vacancy position and requested to initiate selection process for filling up of contract faculty for the academic year 2013-14 and when the

principal was a member of the selection committee, the selections are binding on the TTD.

7 . Learned counsel further contended that having waited for considerable time and as academic year was coming to an end, petitioners were constrained to invoke jurisdiction of this Court. This Court directed appointment within three days. There is no justification not to appoint the petitioners even though direction was issued by this court. Learned counsel further submitted that once appointed, though appointment is for the academic session 2013-2014, such appointment is renewed from year to year and, therefore, if the petitioners are appointed during the academic year 2013-14, their contract would have been automatically renewed for the subsequent academic years and on account of illegal action of the respondent–TTD, the entitlement of the petitioners for appointment and continuation in the 6th respondent-College is denied. Such denial is without any justification, amounts to arbitrary exercise of power and authority and is illegal. Learned counsel further contended that there is no justification for non-compliance of the orders of this Court.

8. Learned standing counsel representing TTD submitted that the 6th respondent college is one of the establishments listed in Schedule II of the Act 30 of 1987 and, is part of TTD as defined in Section 2 (28) of the Act. As per the provision of the Chapter-XIV and Rule 5 of the TTD Employees' Service Rules, 1989, the Executive Officer alone is competent to make appointments to any post in the TTD. Thus, the Regional Joint Director has no *locus standi* to mandate the respondent-college to appoint petitioners as Lecturers.

9. Learned standing counsel further contended that detailed schedule is prescribed to make the contract appointments in the circular instructions issued by the Commissioner of Collegiate Education in his proceedings dated 05.07.2013. As per the schedule,

the notification calling for applications should be issued on 08.07.2013 and entire selection process should be completed by 15.07.2013 and contract agreements should be entered into by 17.07.2013. Appointments so made get terminated on 31.03.2014. As against this schedule, notification was issued on 14.11.2013 i.e., much later to last date for completion of selection process. Learned counsel therefore contended that said notification is *ex facie* illegal and the consequential selections are not valid in law and, therefore, not binding on TTD.

10. Learned standing counsel further contended based on the recommendations made by the selection committee, it is for the TTD to appoint and the Regional Joint Director cannot compel the Principal to appoint, more particularly when the schedule was over long ago and by the time the TTD received the recommendations of the selections, the academic year is almost over. Learned standing counsel therefore submitted that there is no basis for the petitioners to make a claim and prayer sought in the writ petition is not maintainable.

11. Shorn of details, the issue is in narrow compass. Can petitioners seek mandamus to appoint them as Contract Lecturers contrary to the intendment of the management of the 6th respondent college ?

12. The Commissioner of Collegiate Education issued guidelines for constitution of the selection committee and making selections. The guidelines prescribed the schedule within which the selection process should be initiated and completed. According to these instructions, on or before 17.07.2014 the contract appointments should be finalised. In the instant case paper notification was issued on 14.11.2013. Thus, the process initiated by the Regional Joint Director itself is far beyond the schedule prescribed by the Commissioner. The academic year commences in June and ends in March of the subsequent year. Insofar as this case is concerned, it is 2013-14 academic year. By the

time selections are finalized, the academic year almost came to an end.

13. It is settled principle of law that there is no indefeasible right to insist for appointment merely because a candidate is included in the selection list and he should be appointed as a matter of course.

Contrary to intendment of employer, no mandamus can be issued for such appointment. In the instant case, as noticed above, by the time the selections were finalized, the academic year has almost come to an end and, therefore, it is permissible for the TTD not to make the appointments when no useful purpose would be served. Be that as it may, the process initiated by the Regional Joint Director was for appointment of contract faculty for the academic year 2013-14. By the time, the writ petition is instituted, only few days of the academic session were left. Ordinarily and in terms of the notification also, the contract would come to end by 31.03.2014. The petitioners are seeking for appointment as Contract Lecturers pursuant to the selections finalized on 24.12.2013 for the academic year 2013-14. When once academic year for which appointment was intended is already over and it was a contract appointment, even assuming that the selection process was validly made, no mandamus can be issued. Merely because their contract could have been renewed for the subsequent academic years, if they were appointed during the academic year 2013-14 cannot be a ground to grant relief when the period for which the appointment intended was already over. At the most petitioners may claim damages for alleged illegal denial of appointment.

14. Therefore, it cannot be said that decision of the TTD not to make appointments as a consequence to the recommendation made by the Regional Joint Director as illegal and arbitrary, warranting interference by this Court.

15. For all the reasons aforesaid, no relief as sought for can be

granted. Interim order granted on 19.03.2014 stands vacated.
Accordingly, writ petition is dismissed.

16. In view of the dismissal of the Writ Petition, the Contempt Case No.533 of 2014 is closed.

Miscellaneous petitions, if any, pending in the writ petition and contempt case shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 05.01.2016

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