

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

WRIT PETITION No.9920 OF 2016

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order dated 11.12.2015, vide proceedings Rc.No.Zone-II/4510/2014-11, passed by the 2nd respondent – Secretary, A.P.Social Welfare Residential Educational Institutions Society, Hyderabad.

2. Heard Sri V.Ranga Babu, learned counsel, appearing for the petitioner, learned Government Pleader for Social Welfare, appearing for the 1st respondent and Sri Uma Shankar Lokanadham, learned standing counsel, appearing for the respondents 2 and 3, apart from perusing the material available before the Court.

3. Petitioner herein is presently working as a Junior Lecturer in Chemistry in the 3rd respondent Junior College. The 2nd respondent – Secretary issued a show-cause notice bearing Rc.No.Z-II/4510/2014-11, dated 17.07.2015, calling upon the petitioner to offer her explanation for the allegations contained therein. In response to the said show-cause notice, the petitioner herein submitted an explanation dated 30.07.2015. Thereafter, 2nd respondent, by virtue of an order vide proceedings Rc.No. Zone-II/4510/2014-11, dated 11.12.2015, inflicted the punishment of '*stoppage of three annual grade increments without cumulative effect*' under Rule-28 of the conduct rules of the respondent society. Calling in question the validity and legal sustainability of the said order of punishment, the present writ petition has been filed.

4. It is contended by the learned counsel for the petitioner that the

order of punishment passed by the 2nd respondent is highly illegal, arbitrary, unreasonable and is violative of Article 14 of the Constitution of India. It is the further submission of the learned counsel for the petitioner that without considering the contents of the explanation submitted by the petitioner herein, the

2nd respondent passed the impugned order of punishment and the same is violative of the principles of natural justice. It is further contended by the learned counsel that the very show-cause notice issued by the 2nd respondent, indicating the punishment also cannot be sustained in the eye-of-law.

5. On the contrary, it is contended by the learned Government Pleader and the learned standing counsel for the respondent society that there is no illegality nor there exists any procedural infirmity in the impugned action, as such, the order impugned is not amenable for any judicial review of this Court under Article 226 of the Constitution of India. It is the further submission of the learned counsel that only after considering the explanation and the contents of same, the 2nd respondent passed the impugned order of punishment.

6. A perusal of the show-cause notice issued by the 2nd respondent – Secretary of the Society shows that it indicated the punishment also, as such by any stretch of imagination the same cannot be sustained in the eye-of-law and the same would amount to arriving at a conclusion in advance. In response to the show-cause notice, the petitioner herein submitted a detailed explanation, touching various aspects. A reading of the order impugned shows that except indicating the explanation offered by the petitioner as one of the references in the impugned order, the 2nd respondent did not consider the contents of the explanation offered by the petitioner. This attitude, in the considered opinion of this Court, can neither be approved nor countenanced. Therefore, in the facts and circumstances of the case,

this Court has absolutely no scintilla of hesitation to hold that the order of punishment issued by the 2nd respondent cannot be sustained in the eye-of-law.

7. For the aforesaid reasons, Writ Petition is allowed, setting aside the order dated 11.12.2015, vide proceedings Rc.No.

Zone-II/4510/2014-11, passed by the 2nd respondent. However, it is open for the respondents to proceed, in accordance with law, after issuing notice and affording opportunity of being heard to the petitioner herein and in the light of the observations made supra.

9. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

06.04.2016

SS