

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 41291 of 2016

ORDER: (*Per VRS,J*)

Aggrieved by an order passed by the Andhra Pradesh Administrative Tribunal, directing the Government to treat the 1st respondent as a local candidate for the purpose of appointment to the post of Technical Assistant in Irrigation and CAD Department, the State Government has come up with the present writ petition.

2. Heard the Government Pleader for Services (AP) appearing for the petitioners. Mr. P. Ganga Rami Reddy, learned counsel, takes notice for the 1st respondent.

3. The 1st respondent belongs to the Scheduled Tribes. It appears that she studied from classes IV to IX in Anantapur District. She got married to a person, who was a native of Chittoor District, in the year 1998 and moved to Chittoor. From her matrimonial home, she appeared as a private candidate for the matriculation examination in 2005, but in Anantapur District. Thereafter, she studied ITI as a regular candidate in a Government Industrial Training Institute in Chittoor District and completed the course in 2009.

4. When applications were invited for appointment to the post of Technical Assistants, the 1st respondent applied. But, her case was not considered, on the ground that she was not a local candidate within the meaning of the Presidential Order, in Chittoor District. Hence, she filed a original application in O.A.No.5188 of 2013 on the file of the A. P. Administrative Tribunal. The Tribunal allowed the application on an interpretation of Paragraph-7 (1) (ii) of the Presidential Order. Challenging the said order, the State is before us.

5. The facts narrated above are not in dispute. The main grievance of the State is that the Tribunal has placed reliance upon Paragraph-7 (1) (ii) of the Presidential Order, without reference to the definition of the expression “*relevant qualifying examination*” appearing in the Explanation under Paragraph-7 of the Presidential Order.

6. Paragraph-7 (1) (ii) of the Presidential Order reads as follows:

“Where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the qualifying examination in which he appeared or as the case may be, first appeared.”

7. It may be seen from the paragraph extracted above that the expression “*qualifying examination*” appears in Paragraph-7 (1) (ii) at two places. In the first place, it appears along with the word “*relevant*”. Therefore, it is only in relation to the first place that the Government can call back upon the definition given to the expression “*relevant qualifying examination*” under the Explanation.

8. For the application of Paragraph-7 (1) (ii), two conditions are to be satisfied, namely, (a) that a person must have appeared for the relevant qualifying examination in a particular academic year, and (b) that during four consecutive academic years preceding the academic year in which he so appeared, he must have resided in that local area.

9. In the case on hand, even if we go by the contention of the petitioner, the expression “*relevant qualifying examination*” would signify only the matriculation examination. The 1st respondent appeared for the matriculation examination only in 2005. Paragraph-7 (1) (ii) does not talk about the place where one should have appeared for the relevant qualifying examination. It imposes a condition that during four consecutive academic years preceding the academic year in which the candidate appeared for the relevant qualifying examination, he must have resided in that local area.

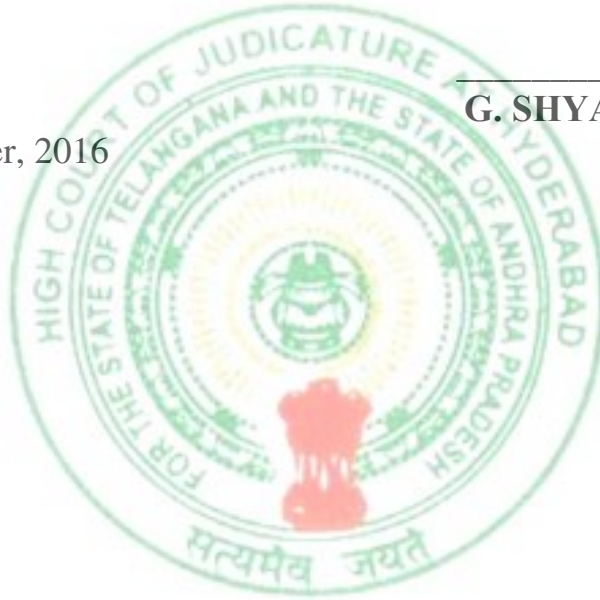
10. The 1st respondent resided in Chittoor District from 1998, until she appeared for the matriculation examination in 2005. Therefore, the Tribunal was right in granting relief to the petitioner. We do not wish to interfere with the same. Hence, the Writ Petition is dismissed.

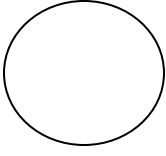
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

29th November, 2016
cbs





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