

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

WRIT PETITION No.3126 OF 2016

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order dated 24.09.2015, passed by the 4th respondent.

2. Heard Sri Kowturu Vinaya Kumar, learned counsel, appearing for the petitioner; and learned Government Pleader for Higher Education, appearing for the 1st respondent and Sri T.Srikanth Reddy, learned counsel, appearing for the 4th and 5th respondents.

3. By virtue of the impugned order, the 4th respondent dismissed the petitioner from service. When the matter is taken up, a preliminary objection with regard to maintainability of the writ petition is taken up by the learned Government Pleader and learned counsel for the 4th and 5th respondents, stating that as against the order impugned in the writ petition, there is an effective alternative remedy provided under Section 80 of the A.P. Education Act, 1982, which reads as under:

"80. Appeal against orders of punishment imposed on employees of private institutions:-

(1) *Any employee who is dismissed, removed or reduced in rank may prefer an appeal against the order to the competent authority within thirty days of the receipt of order by him.*

(2) *The competent authority shall not interfere with the order appealed against unless the order is vitiated on any one or more of the following grounds namely, -*

(a) *that there is no material to substantiate the charge of charges framed against the employee; or*

(b) *that the authority who passed the order acted with bias or mala fides; or*

- (c) *that the order is perverse or arbitrary; or*
- (d) *that no reasonable opportunity has been afforded to the employee to prove his innocence:*

Provided that the competent authority shall not pass any order prejudicial to the management unless an opportunity of making a representation is given.

- (3) *The competent authority may, after giving notice to the management of the private institution, pass such interim orders as it deems fit, pending disposal of the appeal under sub-section (2), if it is satisfied that the employee has made out a prima facie case for interference.*
- (4) *In respect of an order imposing any penalty as laid down in sub-section (5) of Section 79 an appeal shall lie to the District Educational Officer having jurisdiction and in respect of such appeals the order appealed against shall not be set aside except on the grounds specified in sub-section (2)."*

4. In view of the availability of the said alternative remedy of statutory appeal, this Court is not inclined to entertain the present writ petition. However, having regard to the facts and circumstances of the case, this Court is of the considered opinion that interest of justice would be met, if the petitioner is permitted to avail the said remedy of appeal.

5. For the aforesaid reasons and having regard to the nature of controversy, this Writ Petition is disposed of, keeping it open for the petitioner herein to file Statutory Appeal under Section 80 of the A.P. Education Act, 1982, within a period of three weeks from the date of receipt of a copy of this order, if any such appeal is filed by the petitioner herein within the time stipulated, the same be considered and appropriate orders be passed, after giving notice and opportunity of being heard to the petitioner herein, in accordance with law, not withstanding the limitation.

4. 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

18.02.2016
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