

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA
RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO
WRIT APPEAL No. 766 of 2008**

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**JUDGMENT: (*per Hon'ble Sri Justice Nooty
Ramamohana Rao*)**

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This writ appeal is directed against an interlocutory order passed on 28.03.2008 pending Writ Petition No.1883 of 2007 instituted by the 1st respondent herein.

2. Two interlocutory applications have been taken out by the State, (1) W.P.M.P.No.33506 of 2007 seeking modification of an earlier interim order passed on 12.06.2007 in W.P.M.P.No.2373 of 2007 in W.P.No.1883 of 2007, and (2) W.P.M.P.No.3557 of 2008 seeking a direction to consider the claim of the writ petitioner in terms of Ordinance No.9 of 2007, dated 19.09.2007, instead of, in terms of and in accordance with the orders contained in G.O.Ms.No.320/Edn., Education (PS-2) Department, dated 16.09.1994, pending disposal of the writ petition. Both these interlocutory applications were considered and disposed of together by the afore-mentioned order, dated 28.03.2008. The learned Single Judge has noticed that

the State Government has announced its policy decision through the said G.O.Ms.No.320, dated 16.09.1994, providing for payment of maintenance grant to private schools which were admitted to grant-in-aid. When the writ petitioner School approached this Court, an order was passed on 12.06.2007 directing to consider its case for release of maintenance grant in accordance with G.O.Ms.No.320, dated 16.09.1994 and pay the amount due to it within eight weeks. After the time granted by this Court has elapsed and after noticing that the State Government has not taken any steps to comply with the said order, Contempt Case No.977 of 2007 was instituted. Instead of moving any such extension application, now a new approach is adopted by the State seeking a direction to consider the case of the writ petitioner and their like, by relying upon the provisions contained in Ordinance No.9 of 2007 which came into force on 19.09.2007. Since the order passed on 12.06.2007 cannot be stopped from being acted upon on the basis of the provisions contained in the Ordinance, which came into force more than three months thereafter, this Court did not find any merit in these applications and they were accordingly dismissed.

3. The learned Assistant Government Pleader for

School Education would contend that the Ordinance having been promulgated it should be treated to have substituted the earlier policy of the State contained in G.O.Ms.No.320, dated 16.09.1994. We are afraid that this question as to what would be the effect of the Ordinance or any Law, which transpires itself later-on, vis-à-vis the earlier policy decision of the State is required to be addressed in the writ petition. The interlocutory order passed on 12.06.2007 by this Court cannot be withheld from being complied with on that score. In case the writ petitioner fails in the writ petition, the payments received by it pending the writ petition can always be regulated by the Court, and on the other hand, after final debate this Court were come to the conclusion that the provisions of the Ordinance No.9 of 2007 of Act No.34 of 2007 are not applicable to the case on hand, and in the meantime no grant is released, the writ petitioner would be put to irreparable injury and hardship. Hence, any payment the writ petitioner has received pending the writ petition will abide by the result in the writ petition. We direct the Registry to list the writ petition for hearing at the earliest, as it is fairly an old matter.

4. Accordingly, the Writ Appeal stands disposed of. No costs.

Consequently, miscellaneous applications, if any,
shall stand dismissed.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

6th April, 2016
cbs

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