

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39728 OF 2016

DATED : 18.11.2016

Between :

Mallarapu Veladri S/o.Gopala Rao,
Aged 36 yrs, Occu : Coolie,
R/o.Veludurthipadu Village,
Penuganchiprolu Mandal,
Krishna District.

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Petitioner

And

State of Andhra Pradesh,
Rep., by its Principal Secretary to School Education,
Department, Secretariat, Amaravathi,
Guntur District. & others.

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Respondents



This court made the following :

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ORDER :

Petitioner is a resident of Veludurthipadu village, Krishna District and eking out his livelihood by doing agricultural coolie. Petitioner is blessed with two children. The petitioner's children were admitted in Sri Chaitanya Techno School, Penuganchiprolu village, Krishna District (6th respondent), in 7th & 5th classes respectively, for academic year 2016-17. According to the petitioner he is unable to meet the expenses required to educate his children and on the ground that requisite fee is not being paid, the children are not allowed to prosecute their studies. Praying to issue appropriate direction to the authorities as well as 6th respondent, to permit the petitioner's children to prosecute their education without insisting for payment of very high fee prescribed, this writ petition is filed.

2. Heard Sri Solomon Raju Manchala, learned counsel for the petitioner and learned Government Pleader for School Education (A.P).

3. Learned counsel for the petitioner submits that right to Education is a fundamental right and the Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009) (for short 'the Act') mandates provision of atleast 25% of seats to children belonging to disadvantaged group and weaker sections. The provisions of the Act are equally applicable to the schools run by private organizations. Thus, the 6th respondent is also bound by the provisions of the Act, and it is mandatory for the 6th

respondent to provide free and compulsory education to children of the petitioner and not providing education on the ground that the petitioner is not paying the fee, is in violation of the said provisions of the Act and the 6th respondent is liable to be proceeded.

4. Learned counsel for the petitioner would submit that petitioner approached Mandal Legal Service Committee in P.L.C.No.75 of 2016 complaining the illegal action of the respondent-School management. But the Mandal Legal Service Committee expressed its inability to deal with these matters. In those circumstances, this writ petition is filed.

5. It is not in dispute that the Act 35 of 2009 recognizes the entitlement of children belonging to disadvantaged group/weaker sections to gain admission into the schools run by private Organizations and also to provide education at free of cost. However, it is to be noted that the Act, created a mechanism for redressal of the grievance coming out of the enforcement of provisions of the Act. Section 32 of the Act created redressal mechanism in the form of complaint to the Local authority having jurisdiction over the schools in which students are prosecuting their education. Section 2 (h) of the Act defines local Authority. In so far as Education institution is concerned, the District Educational Officer is the local authority. Therefore, in terms of the provisions contained in Section 32 of the Act, the petitioner is entitled to complain to the District Educational Officer under Section 32 and as and when such a complaint is made, the District Educational Officer shall consider the same and take appropriate remedial steps for enforcement of the provisions of the Act.

6. In the instant case petitioner has not availed the remedy available under Section 32 of the Act, and directly instituted this writ petition.

7. Since redressal mechanism is created by the Act, the petitioner has to avail the remedy as available under the Act and in case authority does not respond to the grievance or is not satisfied with the response, it is open to the petitioner to avail extraordinary remedy under Article 226 of the Constitution of India. Hence, this Court is not inclined to entertain the writ petition at this stage.

8. However, having regard to the grievance expressed by the petitioner that his children are not allowed to prosecute the education for this academic year on the ground that the fee required to be paid is not paid, petitioner is granted liberty to make a complaint under Section 32 of the Act to the District Educational Officer. As and when such a complaint is made, the District Educational Officer shall consider the same, call for explanation from the School management and take appropriate decision, in accordance with the provisions of the Act, 2009, as expeditiously as possible, preferably within a period of two (2) weeks from the date of submission of complaint.

9. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

18th November, 2016
Note : Issue C.C. by 22.11.2016
B/o.
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