

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL No.1020 of 2015

Date: 16-06-2016

Between:

The State Government
Rep by its Secretary to Government
Tribal Welfare Department, Secretariat,
Hyderabad and another

.....Appellants

and

P Venkateshwara Naik S/o P Bheemla Naik
Secondary Grade Teacher Konnur village,
Kothakota mandal, Mahboobnagar district and others

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Petitioners belong to lambadi community, a recognised scheduled tribe. second petitioner was admitted to first class in Hyderabad Public School (for short HPS) at Hyderabad in the year 2005. The State

Government flouted scholarship scheme for the benefit of scheduled tribe children to prosecute their education in prestigious schools like HPS.

A Scheduled Tribe candidate is entitled to avail the said benefit if the parental income does not exceed Rs.12,000/- per annum. On consideration of the eligibility of the second petitioner, second petitioner was admitted to the scholarship scheme. Second petitioner accordingly prosecuted his school education by availing the scholarship.

2. The Commissioner of Tribal Welfare, having noticed that the gross salary of the first petitioner was Rs.14,633/- per month after he secured employment, the pre-matric scholarship sanctioned to the second petitioner was cancelled from academic year 2010-11. As a consequence, HPS issued letter dated 1.3.2011 directing the first petitioner to pay the tuition fee for the academic year 2010-11. The said orders are challenged in the writ petition.

3. Learned single Judge, having found that when the second petitioner was admitted to pre-matric scholarship, he fulfilled the parental income eligibility criteria, the grant of such scholarship is at one go for the entire pre-matric education and there is no provision for review of eligibility of pre-matric scholarship periodically. Thus, the subsequent earning capacity of the first petitioner has no relevancy. Learned single Judge also observed that in spite of granting sufficient time, no material was produced to show that such a review was contemplated under the pre-matric scholarship scheme and therefore held that it was not open to the State to review the eligibility of the second petitioner on the ground of increase of parental income after initial sanction of the scholarship, when it is not permissible to reopen the issue of eligibility criteria on the ground of subsequent rise in earning capacity of the parent.

4. Learned single Judge also observed that even assuming that the present parental income is a valid criteria, having regard to the fact that school charges very high fee for prosecuting the education, the ground reality would be that parent would not be able to bear the expenditure to continue the education in the said school. Accordingly, the writ petition was allowed with further directions.

5. Confronted by the findings of the learned single Judge that no provision

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