

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.15963 of 2015

ORDER:

The petitioner school was established in the year 1942 as Primary School in the name of Vaidik Pradhamika Patashala at Narayanpet Village, Mahabubnagar District. The recognition to the school was granted for the classes 6 to 10 for the academic year 2009-10 to 2018-19 vide proceedings of respondent No.3 dated 23.10.2009. The school is functioning with two sections in each class. It was admitted to grant-in-aid initially for the classes 1 to 5. Thereafter, secondary school was also admitted to grant-in-aid by proceedings in G.O.Ms.No.208 Education Department dated 13.03.1980. As of now, there are 22 posts which were admitted to grant-in-aid, out of which only 12 teaching and non-teaching staff are working. When the petitioner sought permission to fill up the vacancies of aided posts and when there was no response from the respondents, the present writ petition was filed.

A counter affidavit is filed stating that there is ban on creation and filling up of aided posts including compassionate appointments by virtue of Government Memo No.12080/COSE/2004-10 dated 20.10.2004 read with Government Memo No.8544/COSE/2005-3 dated 14.11.2005.

Learned counsel for the petitioner submitted that the said memo dated 20.10.2004 was set aside by this Court in **Netaji Memorial Educational Society, Vijayawada, rep. by its Secretary and Correspondent Sri K.Chalapathi Rao v. Government of Andhra Pradesh, rep. by its Principal Secretary, School Education**^[1].

Learned Government Pleader submitted that against the said decision W.A.No.216 of 2014 was filed, wherein a Division Bench of this Court in W.A.M.P.No.663 of 2014, dated 25.02.2014 passed an order giving liberty to the Management of the Institution to appoint teachers, for which temporary permission shall be granted by the authorities within seven days. But it was made clear that the said permission shall not be taken advantage by the Management at the time of hearing the appeal. It was also made clear that appointee shall be given appointment orders subject to the result of the appeal only. He further submitted that against the said interim order, the matter was carried to the Supreme Court and the Supreme Court dismissed the appeal.

The order of Division Bench in W.A.M.P.No.663 of 2014 in W.A.No.216 of 2014 reads as follows:

“Therefore, considering the balance of convenience, we feel that the respondent-management will be free to appoint teachers and for this purpose, temporary permission must be granted within seven days from the date of receipt of this order. This factum of granting permission should not be given any weightage or advantage in favour of the respondent at the time of hearing of the appeal. Everything will abide by the result of the appeal. Once the permission is granted, the respondent-management will be free to appoint teachers in accordance with the rules and for the time being, the salary of the teachers shall be borne by the management. It shall also be notified to the appointees that this appointment will be subject to the result of the appeal.”

In terms of the order dated 25.02.2014 of the Division Bench in W.A.M.P.No.663 of 2014 in W.A.No.216 of 2014, this Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

21.04.2016
MVA

[\[1\]](#) (2013) 5 ALT 783