

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**WRIT PETITION Nos.6440, 9873, 10066, 11216, 16201, 18255,
21389, 21927, 21966, 22116, 22118, 22119, 22272 of 2015 AND
8556 of 2016**

Between:

B.Balaji Hanuman Naik and others

....Petitioners

and

The State of Andhra Pradesh, rep. by its Principal
Secretary, Department of School Education,
Secretariat, Hyderabad and others.

....Respondents

JUDGMENT PRONOUNCED ON : 12.09.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether His Lordship wishes to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

**WRIT PETITION Nos.6440, 9873, 10066, 11216, 16201, 18255,
21389, 21927, 21966, 22116, 22118, 22119, 22272 of 2015 AND
8556 of 2016**

COMMON ORDER:

All these writ petitions were filed by the candidates seeking selection and appointment to the posts of Post Graduate Teacher (PGT) and Trained Graduate Teacher (TGT) in various disciplines pursuant to the notification No.1/RMSA/Model Schools/2012 dated 06.02.2012 and hence they are being disposed of by this common order.

FACTUAL BACKGROUND:

2. The Central Government launched a scheme called “Rashtriya Madhyamika Shiksha Abhiyan (RMSA) to universalise access to and improvement of quality of education at secondary stage and the scheme was implemented from the financial year 2008-2009. The main object of the scheme is to achieve the general enrolment ratio of 75% for classes IX-X within five years by providing a secondary school within a reasonable distance of every habitation, to improve quality of education imparted at secondary level through making all secondary schools conform to prescribed norms, to remove gender, socio-economic and disability barriers, universal access to secondary level education by 2017, i.e., by the end of 12th Five Year Plan and universal retention by 2010. The object include improvement of the enrolment ratio for classes IX-X to 75% within five years from 52.26% existing in 2005-2006, providing facilities for estimated additional enrolment of 32.20 lakh by 2011-2012, through strengthening of about 44,000 existing secondary

schools, opening/strengthening 11,188 new secondary schools, appointment of 1.79 lakh additional teachers and construction of 88,500 lakh additional classrooms.

3. The State Government was directed to constitute a State Level Mission on RMSA headed by Chief Minister, Executive Committee headed by Secretary in-charge of Secondary Education and Technical Support Group. The project will be implemented by a State Mission Director as Nodal Officer. The offices of District Education Officer and Block Level Education Officers were asked to be strengthened and arrangement for implementation of the project at those levels was envisaged. A school management and development committee was to be constituted under the scheme and the bank accounts have to be opened for the committee. A perspective plan and annual plan have to be prepared. A time bound action plan for recruitment of additional teachers with emphasis on teachers for Science, English and Mathematics has to be prepared. A time bound plan for in-service training of all teachers also has to be prepared. It was envisaged that the Panchayat Raj institutions shall also play a crucial role and involve in the implementation of the scheme. The Central Government shall bear 75% of the project expenditure during 11th Five Year Plan, with 25% of the cost to be borne by State Government. In respect of 12th Five Year Plan, the sharing pattern will be 50:50. Details of the scheme were circulated to the Secretaries of Secondary Education of all States by a letter of Government of India, Ministry of Human Resource Development, Department of School Education & Literacy, New Delhi dated 02.03.2009.

4. Pursuant to the said scheme, the erstwhile Government of Andhra Pradesh registered a society called “Andhra Pradesh Secondary Education Society” and opened a bank account relating to RMSA. The schools opened under the said scheme are called as “Model Schools” and they will have infrastructure and facilities of the same standard as in a Kendriya Vidyalaya and with stipulations on pupil-teacher ratio, ICT usage, holistic educational environment, appropriate curriculum and emphasis on output and outcome. The teacher-pupil ratio should not exceed 1:25. The erstwhile Government of Andhra Pradesh issued G.O.Ms.No.254, Finance (SMPC-I) Department, dated 03.12.2011, creating and sanctioning 12351 posts at State and district levels and 355 model schools under the scheme. The posts sanctioned at State level were directed to be filled up on deputation, whereas at the district level, the District Education Officer shall act as the District Monitoring Officer and the remaining 115 posts sanctioned at district level shall be filled up on deputation. All the 7,100 posts created at the school level shall be filled up by direct recruitment. Out of 7,100 posts, 355 posts, 4,260 posts and 2,485 posts are posts of Principal, PGT and TGT respectively.

5. Adhoc rules for direct recruitment for the posts of Principals, PGTs and TGTs in Model Schools-2012 were framed. After framing the rules, a notification for recruitment of Principals, PGTs and TGTs for Model Schools was issued in notification No.1/RMSA/Model Schools/2012 dated 06.02.2012. The notification was issued in respect of 355 schools, for 355 posts of Principals, 4,615 posts of PGTs and 2,130 posts of TGTs in various subjects for all the six zones. In the notification, it was stated

that the post of Principal is a State wide post, whereas the posts of PGT and TGT are zonal posts. In these cases, we are not concerned with the qualifications prescribed for those posts, but the issue related to the method of selection. The recruitment was on the basis of a written test consisting of multiple choice questions for 100 marks. However, in respect of TGTs, out of 100 marks, 80% shall be for written test and the remaining 20% for APTET (paper-II). The notification further states that upto 1/3rd of posts may be filled up by deputation from persons working in Kendriya Vidyalaya Sanghatan/Navodaya Vidyalaya Samithi/Central Schools under the control of Government of India. The vacancies are stated to be indicative, but the actual appointments will be restricted to the number required in relation to the opening of Model Schools/Classes/Sections. The details of the 355 Model Schools were also given. However, after issuing the notification as aforesaid, G.O.Ms.No.25, Education (SE-Pog.I) Department dated 04.04.2013 was issued providing guidelines for selection to the said posts. Under the said GO, a Selection Committee was to be constituted and it was stated that the number of candidates selected shall not be more than the number of vacancies notified. It was made clear that there will be no waiting list and posts, if any, unfilled for any reason whatsoever shall be carried forward for future recruitment. Detailed guidelines for verification of certificates, preparation of selection lists, procedure for implementing the reservations and Presidential Order, 1975 and issuance of appointment orders were issued. The last date for submission of applications was mentioned as 22.03.2012. The main issue related to the procedure for verification of certificates and issuance

of appointment orders contained in paras 11 and 14 respectively and they are as follows:

“11. Verification of Certificates:

- a) The Additional Director, Model Schools shall prepare with the approval of the Selection Committee a provisional list to the extent of vacancies notified, for each category of post notified, on the basis of the merit list and publish the same on the notice boards of the offices of the District Collector and District Educational Officer and also on the designated website, along with the date, time and venue fixed for verification of certificates. The Additional Director, Model Schools shall also issue a press note in the newspapers for wide publicity in this regard.
- b) The Committees as constituted in the Annexure-I and Annexure-II to these guidelines shall conduct the verification of original certificates of the candidates for the posts of Principal and the posts of Post Graduate Teacher (PGT) and Trained Graduate Teacher (TGT), respectively, as per the schedule and at the venues specified by the Selection Committee.
- c) As the processing of applications is made online so far, the process of verification of certificates of candidates included in provisional list may, in certain cases, also result in,
 - i. Failure of the candidate to attend for verification of certificates.
 - ii. Failure of the candidate to produce the original certificate/s relevant to his/her eligibility and selection.
 - iii. Inclusion of a candidate in the provisional list of more than one category.
- d) As regards c(i) above, the Additional Director, Model Schools shall send a personal intimation to the address furnished by the candidate, to attend along with all relevant original certificates on the date fixed for the said purpose, as a final chance.
- e) In case the candidate fails to attend even on the date so fixed, he/she shall forfeit his/her right to be considered for selection.
- f) In the event of c (ii) & c (iii) and (d) above, the provisional list shall be redrawn by the Selection Committee drawing next candidate/s from the merit list to the extent necessary, however, subject to the condition that the number of candidates included shall not be more than the number of vacancies notified for that particular category. In so far as the candidate covered by c (iii) above, this exercise shall be done only after obtaining the option of such candidate at the time of verification of certificates itself.
- g) The further verification of certificates, if any required as under (f) above shall be done, after due intimation to the candidates concerned, on the date fixed for the said purpose.

- h) After due completion of the above exercise the Selection Committee shall prepare the final selection list of the candidates for all categories. Once the final selection list is prepared, there shall be no waiting list and posts if any unfilled for any reason whatsoever shall be carried forward for future recruitment.

14. Issue of Appointment Orders:

- a) The Additional Director, Model Schools shall issue appointment orders as per the Ad-hoc Service Rules and posting orders as per the choice exercised by the selected candidates in the counselling.
- b) Actual appointments shall be restricted to the number required in relation to the opening of Model Schools/Classes/Sections.”

6. The notification clearly specifies that the candidate should necessarily produce certificates of having studied in English medium at two levels in case of all posts except PGT (English) and at three levels in case of TGT (English) i.e., at school/junior college/degree college/Post Graduation. It was clarified that the candidates belonging to PGT (Telugu), TGT (English) and TGT (Hindi), need not submit “medium of certificate of services”. Some candidates approached this Court seeking a direction to the respondents to consider their cases to receive applications, though they did not have three levels of English medium education. This Court, by order dated 21.03.2012 in WPMP.No.9043 of 2012 in W.P.No.7150 of 2012 directed the respondents to receive the applications and accordingly the last date was extended up to 27.03.2012. The written test was conducted on 10.05.2012 for TGTs, 11.05.2012 for PGTs and 13.05.2012 for Principals. The results were published in the website on 07.10.2012. However, challenging the above interim orders, the respondents preferred an appeal in W.A.No.366 of 2012 and a Division Bench of this Court set aside the interim order of

the learned Single Judge and ultimately W.P.No.7150 of 2012 was dismissed on 09.05.2012. Against the final order dated 09.05.2012, the petitioners preferred Writ Appeals i.e., W.A.Nos.610, 611 and 612 of 2012 before a Division Bench and the same were also dismissed on 04.01.2013. After dismissal of the above Writ Appeals, some candidates approached the Supreme Court vide SLP Nos.14955 and 19220 of 2013 and the Supreme Court passed an interim order on 04.01.2013 and it reads as follows:

“It will be open to the State Government to prepare a common list of the candidates who have studied either through Telugu Medium or English Medium depending upon the marks they secured, and proceed to effect appointments. The appointment will be subject to the final outcome of the appeal. This order will be applicable for the posts of Principals and the Post Graduate Teachers.”

7. Simultaneously, after dismissal of the above Writ Appeals, the Government took up the recruitment process by preparing a merit list and tentative selection list during May/June-2013 for PGTs and TGTs in all zones in 1:1 ratio as per clause 11(a) in G.O.Ms.No.25 dated 04.04.2013. Communication was sent to all the candidates through SMS and was placed in official website for recruitment and given directions to attend for the certificate verification in zone wise at the offices of the Regional Joint Directors. In respect of absentees, second time communication was given and in case of absentee candidates during second time, their names were removed from the list. The candidates were given options for web counselling during May/June-2013 and accordingly allotments were made subject to final verification of the certificates. Wherever candidates have failed to produce the certificates in final verification, they were not given appointments at all

and the same were treated as non-joining and the posts remained unfilled. In pursuance of the interim orders of the Supreme Court, in respect of PGTs, a common merit list with English and Telugu medium candidates was prepared.

8. As per the scheme, the Model Schools started functioning from the academic year 2012-2013. But due to non-availability and delay in construction of school buildings, functioning of the schools were deferred to 2013-2014 by limiting the classes to VI to VIII and Intermediate first year course.

9. Thereafter the State was bifurcated on 02.06.2014. By the time of bifurcation of the State, 1,811 candidates consisting of 78 Principals, 1,278 PGTs and 456 TGTs were given appointments. After bifurcation, out of 355 schools, 163 schools were allocated to the State of Andhra Pradesh and 192 to the State of Telangana. Out of 4,651 PGT posts, 2,119 posts and out of 2,130 TGT posts, 978 posts were allocated to the State of Andhra Pradesh. Thereafter, second phase counselling was held in the month of October/November-2014 and a total of 1,032 posts were filled up consisting of 491 PGTs and 498 TGTs. Thus, 2800 posts were filled as against notified 3,260 posts in Andhra Pradesh. Insofar as Telangana State is concerned, 76 posts of Principals, 275 PGTs and 166 TGTs are vacant waiting for fresh notification as 849 candidates for PGT posts and 417 for TGT posts were issued appointment orders.

10. In respect of State of Andhra Pradesh, after completion of second phase counselling in October, 2014, the Society, by its letter dated

05.12.2014, requested the Government for closure of recruitment process, seeking permission to carry forward balance vacancies to the next recruitment. The Government accordingly permitted the Society to close the recruitment process, by its memo dated 28.04.2015. Now the Central Government de-linked the scheme of Model Schools with effect from 2015-2016 and the respective State Governments have to extend 100% support as grant-in-aid to the A.P. Secondary Education Society towards recurring and non-recurring expenditure and the budget allotments are yet to be made. According to the counter-affidavit filed on behalf of the Commissioner and Director of School Education, Government of Andhra Pradesh, the Society is meeting the recurring expenditure from the available funds allotted before 2015-2016 on exigency basis and it is going to be exhausted in 3 to 4 months and it is difficult for the Society to bear the expenses and to maintain.

W.P.Nos.9873, 18255, 21389, 21927, 21966, 22116, 22188, 22119, 22272 of 2015 AND 8556 of 2016:

11. The case of the petitioners in these cases is that the procedure contained in para 11 of G.O.Ms.No.25 dated 04.04.2013 was not followed and the posts were filled up contrary to the said procedure. They further state that there cannot be any amendment to the selection process after the notification was issued. It is their specific case that the selection procedure mentioned in para 11(h) was not followed and the vacancies were filled up with the available candidates, who produced the certificates for verification, without giving further chance for redrawing the provisional list as envisaged under para 11 (f) as above and without preparing a final selection list.

12. In the light of the above averments, it has to be seen whether the case of the petitioners can be considered for appointment or not?

13. Learned counsel for the petitioners submit that though they accept that there cannot be any waiting list, it is their case that the respondent had closed the list without preparing a final selection list even according to their own procedure contained in G.O.Ms.No.25 dated 04.04.2013 and they have violated para 11 (f) and (h) and hence the petitioners are entitled to be considered for appointment. Learned Government Pleaders for the States of Telangana and the Andhra Pradesh submit that the petitioners' names did not figure in the provisional selection list and hence they are not entitled for consideration of their cases for appointment. Even assuming that the names of some of the petitioners are included in the selection list, they cannot demand appointment as a matter of right, as the Supreme Court authoritatively held that mere inclusion of name in the selection list does not confer any right on the candidate to seek appointment. The learned counsel for the parties relied upon **K.Manjusree v. State of A.P¹**, **K.V.N.Bhupal v. State of Andhra Pradesh²**, **Manoj Manu v. Union of India³**, **State of UP v. Rajkumar Sharma⁴** and **Government of Andhra Pradesh v. Raaya Sridevi⁵**.

¹ (2008) 3 SCC 512

² 2010 (1) ALD 435 (DB)

³ (2013) 12 SCC 171

⁴ (2006) 3 SCC 330

⁵ 2013 (3) ALT 148 (DB)

14. A perusal of the above facts show that the notification was issued on 06.02.2012 without clearly indicating the selection process except stating that the method of appointment will be by written test for PGTs and written test and APTET or its equivalent score to the extent of 20% for TGTs. After declaration of the results of written test, G.O.Ms.No.25 dated 04.04.2013 was issued giving guidelines for selection to the said posts. Since subsequent GO only elaborates the procedure for selection to the posts without changing the method of selection, I am of the opinion that the cases of **K.Manjusree** (1 supra) and **K.V.N. Bhupal** (2 supra) are not applicable to the facts of the present case.

15. In **K.Manjusree's** case (1 supra), the High Court on administrative side made two changes after written examination and interviews by scaling down the marks for written examination so as to maintain ratio between written examination and interview at 3:1 instead of 4:1. It also introduced minimum qualifying marks for interview. Since it affected the selection list, the Supreme Court held that if the Selection Committee prescribed minimum marks only for the written examination, before the commencement of selection process, it cannot, either during the selection process or after the selection process, add an additional requirement that the candidates should also secure minimum marks in the interview. The change in the selection process was found to be illegal in the light of the facts of that case.

16. In **K.V.N. Bhupal's** case (2 supra), the written examination and interview were held as per old rules and the results were published on 29.09.2008. However, new rules were framed in G.O.Ms.No.119, dated

02.08.2008 with retrospective effect from 01.01.2007. In those circumstances, it was held by this Court that calculation of vacancies on the basis of the new rules issued in future does not arise as on the date of issuance of notification but in the instant case, no such situation has arisen. G.O.Ms.No.25 dated 04.04.2013 merely elaborates the selection procedure without affecting any change in the method of selection.

17. The process envisaged in para 11 of G.O.Ms.No.25 dated 04.04.2013 provides for preparation of a provisional selection list to the extent of vacancies notified for each category of posts notified on the basis of the merit list and publication of the same on the notice boards and in the website. Thereafter, the Selection Committee shall conduct the verification of original certificates of the candidates. In that process, some candidates may not attend and some candidates may produce the original certificate not relevant with their eligibility and selection. There may be cases of inclusion of candidate in the provisional list of more than one category. It was stated that a date shall be fixed for verification and in case of failure of the candidates to attend, one more opportunity shall be given as a final chance. In case of candidates not submitting the proper original certificates and inclusion of their names in more than one category and also in case of the candidates failing to attend for verification after second opportunity, the provisional list shall be redrawn by the Selection Committee drawing the next candidate from the merit list to the extent necessary, but not more than the number of vacancies notified for that particular category.

18. The plea of the petitioners is that though their names found place in the merit list, the provisional list, after contingencies mentioned in the process of verification, was not redrawn but appointments were made on the basis of the candidates who appeared for verification of certificates at the initial stage only. It is also their case that no final selection list was prepared. The counter-affidavit also does not indicate the preparation of final selection list as per para 11 (c) to (h) of G.O.Ms.No.25 dated 04.04.2013.

19. As stated above, the notification was issued for a total number of 355 posts of Principals, 4,615 posts of PGTs and 2,130 posts of TGTs and thus 7,100 posts were notified. As per the counter-affidavit filed by the Government of Andhra Pradesh, 1,811 posts were filled up consisting of 78 Principals, 1,278 PGTs and 456 TGTs before the State was bifurcate. Subsequently in October/November, 2014, 1,032 posts were filled up consisting of 491 PGTs and 541 TGTs. As per the communication of Commissioner and Director of School Education, Government of Andhra Pradesh to the Principal Secretary to the Government dated 05.12.2014, in the first phase of recruitment, 71 Principal posts, 1,277 PGTs and 456 TGT posts were filled up by June/July 2013 and November 2013. In the second phase of recruitment, 491 PGT posts and 541 TGT posts were filled up during October, 2014. As per the scheme, each school shall have one Principal, 13 PGTs and 6 TGTs. 92 posts of Principals, 351 posts of PGTs and 24 TGTs are vacant as on today. The Government issued memo dated 28.04.2015 for closure of the notification for recruitment of the posts of

Principals and carry forward the above vacancies left unfilled due to non-joining/resigned to next notification. The recruitment also shows that a letter was addressed on 28.05.2015 by the Commissioner to the Secretary to Government seeking permission for issuing a notification by amending some conditions, thus, it is not as if there are no vacancies.

20. It is clear from the permission of the Government that the Government permitted for closure of notification and carry forward vacancies which are 'left unfilled due to non-joining/resigned' to next notification, but it does not speak of vacancies remained unfilled due to the contingencies mentioned in para 11(c) of G.O.Ms.No.25 dated 04.04.2013. The respondents did not file any evidence to show that they have strictly complied with the selection procedure and filled up the vacancies after preparation of a final selection list as envisaged under para 11 of G.O.Ms.No.25 dated 04.04.2013.

21. In view of the above, the ratio as laid down by the Supreme Court in **Manoj Manu's** case (3 supra) is squarely applicable to this case. In the said decision, it was categorically held that there can be two situations of candidates joining the post and subsequently resigning/quitting and some candidates not joining at all. It was held that in respect of former i.e., the candidates joining and resigning, the recruitment process would be completed. But in the case of latter where the candidates did not join at all, it cannot be held that the recruitment process was completed. In view of the said ratio, the ratio in **Rajkumar Sharma's** case (4 supra) is not applicable. The decision of Division

Bench in **Raaya Sridevi's** case (5 supra) is to the same effect as in the case of **Raj Kumar Sharma's** case (4 supra).

22. Though it was stated in the counter-affidavit that the final selection list was prepared as per clause 11 (f) and (h) of G.O.Ms.No.25 dated 04.04.2013, there is no conclusive evidence or information justifying the said plea as is evident from the column (4) of the information furnished in the counter and it reads as follows:

“4. It is humbly submitted that during selection process, the selection committee had prepared provisional list by following clause 11(f) G.O.Ms.No.25, which are mentioned as follows:

a. After the declaration of the results, General merit list was prepared and software was developed by Centre for Good Governance, MHRD, AP, Hyderabad to select the candidates as per the procedure. Out of which, as per clause 11 (f) of G.O.Ms.No.25, candidates were called for certificate verification in 1:1 basis i.e. the number of candidates included shall not be more than the number of vacancies notified for that particular category viz., the post of Principal is one category of State Level, PGT Telugu – one category for each zone (4), likewise for PGT-English, Mathematics, Physics, Chemistry, Botany, Zoology, Civics, Economics and Commerce. Similarly for Trained Graduate Teachers (TGT) one category for each zone in six subjects viz., Telugu English, Hindi, Science, Mathematics and social studies. Thus, the total number of categories under PGT are 40 (10 subjects x 4 zones) and TGTs are 24 (6 subjects x 4 zones).

b. For each category of posts, separate roster points were followed as per the number of posts notified.

Ex: In PGT – Telugu for Zone-1, the roster points are 1 to 70 @ 2 posts per school. Whereas for Zone-4, the roster points are 1 to 178 in two 100 point cycles @ 2 posts per school.

The details of PGTs and TGTs allotted during May/June 2013 and October/November 2014 are furnished below.

Post Graduate Teachers

Posts notified	Candidates called for certificate verification	Candidates called for certificate verification	Absentees	Allotted candidate	Candidates called by redrawal as per clause 11(f)	Candidates not available	Candidates called for certificate verification	Absentees	Candidates present for certificate verification	Total no. of candidates allotted	Candidates working as on date
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1	2	3 (cl.1-2)	4	5 (cl.3-4)	6 (cl.2+4)	7	8 (cl 6-7)	9	10	11	12
2119	132	1987	376	1611	508	168	340	9	331	1768	1436

Thus, against 2119 posts, after following clause 11(f) of G.O.Ms.No.25 the total no. of candidates called for certificate verification are 2327 (i.e., 1987 + 340 (cl.3 + cl8 above)).

Total no. of candidates working as on date = 1436.

No. of vacancies existing as on date = 683 (2119-1436).

Trained Graduate Teachers

Posts notified	Candidates called for certificate verification	Candidates called for certificate verification	Abse ntees	Allotted candidate	Candidates called by redrawal as per clause 11(f)	Candidates not available	Candidates called for certificate verification	Abse ntees	Candidates present for certificate verification	Total no. of candidates allotted	Candidates working as on date
1	2	3 (cl.1-2)	4	5 (cl.3-4)	6 (cl.2+4)	7	8 (cl 6-7)	9	10	11	12
978	16	962	506	456	522	24	498	277	221	603	576

Thus, against 978 posts, after following clause 11(f) of G.O.Ms.No.25 the total no. of candidates called for certificate verification are 1460 (i.e., 962 + 498 (cl.3 + 8)).

Total no. of candidates working as on date = 576.

No. of vacancies existing as on date = 402 (978-576).”

There is no information with regard to contingencies specified in para 11 (c) and there cannot be any appointment even before compliance with para No.11(h). Same is the situation in respect of State of Telangana also.

23. In the circumstances, there shall be a direction to the respondents to redraw the provisional list so prepared in terms of para 11(f) G.O.Ms.No.25 dated 04.04.2013 and prepare a final selection list and consider the case of the petitioners for appointment, if they come up in the final selection list.

24. Accordingly, the writ petitions are allowed to the extent indicated above.

W.P.No.6440 of 2015:

25. The petitioner applied for the post of TGT under ST category in respect of Zone-IV for the subject of Mathematics. He got the aggregate marks of 39.07 in the written test and TET. He states that as per the list of selected candidates, the first vacancy was filled up by a woman candidate, second vacancy with 42 marks, third vacancy with 41.5 marks and the last vacancy with 41 marks. However, during verification, the candidate with 41.5 marks was found to be not having the required qualification. The said case falls under para 11 (c) (ii) of G.O.Ms.No.25 dated 04.04.2013. The petitioner states that in those circumstances, the respondents should have considered the next candidate in the merit list and the provisional list should have been redrawn accordingly. But, the vacancy was treated as a non-joining post and was treated as a carried forward vacancy on the ground that there cannot be any waiting list.

26. In the counter-affidavit, it was stated that Sri K.Mohandas Naik who got 41.5 marks was found to be ineligible at the final stage by the Regional Joint Director of School Education, Kadapa and hence he was not issued appointment order. The respondents wanted to take advantage of their own lapse of initial issuance of appointment and posting the said K.Mohandas Naik at Rayadurg in Anantapur District and rejecting his candidature after finding ineligible by the same Regional Joint Director of School Education, Kadapa. It cannot be called as a non-joining post and it squarely falls within para 11(c) (ii) of

G.O.Ms.No.25 dated 04.04.2013. The respondents in their information furnished to the petitioner under RTI Act on 15.04.2015 admitted that five candidates against six vacancies in Zone-IV for TGT (Maths) consisting of two female and two males were appointed, and out of five candidates, one candidate found ineligible at final stage.

27. In the circumstances, the writ petition is allowed directing the respondents to consider the case of the petitioner, if he is next in merit list, for appointment as a TGT in Mathematics in one of the available vacancies under ST category in Zone IV.

W.P.Nos.10066, 11216 and 16201 of 2015:

28. W.P.No.10066 of 2015 was filed by five candidates, W.P.No.16201 of 2015 was filed by a candidate who applied for the post of TGT (social studies) in zone-I and W.P.No.11216 of 2015 was filed by a candidate who applied to the post of TGT (social studies) in zone-III.

29. The common case of all the petitioners is that they studied their qualifying course in Telugu medium, but they were allowed to appear for the written test pursuant to the orders of this Court and they were also called for certificate verification. They exercised their web option, but when no appointment orders were issued, they filed the present writ petitions.

30. The common case of the respondents is that the petitioners applied through online by furnishing false information as if they had studied in English medium at two levels, their applications were accepted and hall tickets were issued. But, at the time of giving appointment orders when

the certificates were re-verified, the petitioners were found to have not studied in English medium at two levels and hence their cases were not considered. It was specifically stated that the respondents have not given appointment orders to those who did not study English medium of study at two levels and the interim order of the Supreme Court dated 30.09.2013 is applicable only to the case of PGTs and Principals and cannot be extended to TGTs who did not study in English medium at two levels.

31. This Court, by order dated 08.04.2015 in WPMP.No.13249 of 2015 in W.P.No.10066 of 2015, directed the Commissioner and Director of School Education to issue orders of appointment to the selected candidates based on their over all merits irrespective of the fact that whether they have studied the course in English medium or Telugu medium. However, an additional counter affidavit is filed by the Commissioner on 18.08.2016 stating that they have already filed WVMP.No.1372 of 2015 and the Division Bench of this Court in WA.Nos.610, 611 and 612 of 2012, by order dated 10.05.2012, directed the respondents to allow the writ petitioners to attend the written examination, but, by that time, the written examination was completed on 10.05.2012 itself. The said writ appeals were heard on 04.01.2013 and they were all dismissed. Challenging the orders of the Division Bench, only PGTs and Principals approached the Supreme Court and the interim order of the Supreme Court is applicable only to PGTs and Principals. The application of the Telugu medium candidates were

considered pursuant to the directions of this Court in W.P.No.7150 of 2012 and batch.

32. The notification clearly specifies that the candidate should necessarily produce certificates of having studied in English medium at two levels in case of all posts except PGT (English) and at three levels in case of TGT (English) i.e., at school/junior college/degree college/Post Graduation. It was clarified that the candidates belonging to PGT (Telugu), TGT (English) and TGT (Hindi), need not submit “medium of certificate of services”.

33. The petitioners in all these cases applied to the post of TGT other than in languages and hence they should comply with the requirements in the notification of having studied in English medium at two levels and no exemption can be granted from such requirement even though they were allowed to appear for written test and their certificates were verified by allowing them for verification of certificates. The respondents have clearly stated that they have not issued any order of appointment to the candidates who have not studied in English medium at two levels.

34. In the circumstances, in view of the clear stipulation in the notification, no relief can be granted to the petitioners. Accordingly, these three writ petitions are dismissed.

In the result, W.P.Nos.6440, 9873, 18255, 21389, 21927, 21966, 22116, 22188, 22119, 22272 of 2015 and 8556 of 2016 are allowed and W.P.Nos.10066, 11216 and 16201 of 2015 are dismissed. There shall be

no order as to costs in all the writ petitions. Miscellaneous petitions, if any pending, in all the writ petitions shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 12.09.2016
TJMR

