

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.33994 of 2016

Order:

The petitioner who belongs to Scheduled Caste Community was appointed as Secondary Grade Teacher (Marathi Medium) pursuant to selections of DSC-2006 by proceedings dated 16.06.2012. She joined the service on 18.06.2012. It is the case of the petitioner that she studied at ZPHS, Madnoor from Classes II to VI and studied VII Class privately in Maharashtra. She studied Classes VIII to X in Nanded and Intermediate in Marathi Medium at Nanded. She completed D.Ed Course. She married one Ramesh, a resident of Sonala village of Madnoor Mandal, Nizamabad District in the year 1997. While so, a show cause notice was issued to the petitioner on 19.01.2015 asking her to submit explanation with regard to production of fake *bona fide* certificate while securing the employment. The petitioner submitted her explanation on 16.02.2015. She was asked to appear for enquiry before the third respondent on 20.03.2015, 27.03.2015, 15.04.2015 and 07.05.2015. Later on, a show cause notice was issued on 19.05.2015 based on the note orders issued by the third respondent and the petitioner was asked to submit her explanation as to why her services shall not be terminated on the ground of production of fake *bona fide* certificate. Since the said show cause notice was issued without conducting any enquiry, OA No.2675 of 2015 was filed before the Andhra Pradesh Administrative Tribunal, Hyderabad, and the said OA was allowed on 21.01.2016 by setting aside the show cause notice, but giving liberty to the respondents to conduct enquiry in accordance with law. Now the impugned order is passed on 22.09.2016 proposing to terminate the services of the petitioner and directing her to submit explanation on

the ground that an enquiry was conducted by the Deputy Educational Officer, Kamareddy who submitted a report on 09.08.2016.

Learned counsel for the petitioner submits that no enquiry was conducted and no opportunity was given to the petitioner to cross-examine the witnesses. He further submits that the copy of the enquiry report was also not furnished to her in order to furnish her explanation.

A perusal of the impugned order shows that the Presenting Officer was appointed on 17.06.2016 and the Enquiry Officer submitted his report on 09.08.2016. After appointment of the Presenting Officer no witnesses appears to have been examined in the presence of the petitioner. The petitioner challenges the procedure adopted by the Enquiry Officer and, in the circumstances, this Court is *prima facie* satisfied that the enquiry shall be conducted in the presence of the petitioner.

In view of the same, the enquiry report submitted by the Deputy Educational Officer on 09.08.2016 is set aside and the Deputy Educational Officer, Kamareddy, who was appointed as an Enquiry Officer, is directed to conduct enquiry in accordance with law by giving due opportunity to the petitioner and submit a report in respect of allegations levelled against the petitioner within a period of two (2) months from the date of receipt of a copy of this order. Thereafter, the disciplinary authority shall furnish a copy of the enquiry report to the petitioner along with show cause notice for submitting the explanation by the petitioner. After receipt of the explanation from the petitioner on the basis of the report submitted by the Enquiry Officer it is open to the disciplinary authority to take appropriate action in accordance with law.

Accordingly, the Writ Petition is allowed at the admission stage after hearing the learned Government Pleader by setting aside the report of the Enquiry Officer dated 09.08.2016 and the impugned order dated 22.09.2016 and the matter is relegated to the Enquiry Officer as aforesaid. There shall be no order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 30.09.2016
Nsr

