

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

**W.P.No.22734, 23270, 23258,
& 23246 of 2016**

COMMON ORDER

All these writ petitions are disposed of by this common order as they relate to the petitioners, who are working as Auxiliary Nurse Midwives.

The writ petitioners were engaged by the 6th respondent under Integrated Child Development Scheme (ICDS) sponsored and financed by the Central Government, as per the procedure contained in G.O.Ms.No.15, Labour, Employment, Nutrition and Technical Education (IUCDS) Department, dated 17.1.1984, issued by the Government of Andhra Pradesh. It is the case of the petitioners that in the State Secretaries meeting held on 18.10.2004 and 19.10.2004 at New Delhi, a decision was taken to the effect that the posts of Medical Officer, Lady Health Visitor and ANM etc., which were sanctioned, as part of ICDS Scheme till the year 1982-83, should not be filled up, as the public health infrastructure created by the Ministry of Health and Family Welfare has to provide health related services envisaged under the ICDS programme. Accordingly, it was decided that the salaries and other expenditure of Medical Officers/Staff, who are working in the PHCs in the

Rural and Tribal ICDS project areas under ICDS Scheme shall be met by the Department of Health & Family Welfare and no funds will be released by the Department under ICDS Scheme. In ICDS Annual Programme Implementation Plan (APIP) for the year 2016-17, no medical staff were shown at project level. Since the Government of India is not reimbursing the expenditure pertaining to Medical Staff, who are working under ICDS Scheme, the Department of Women Development and Child Welfare Department surrendered the medical staff to the Health & Family Welfare Department. Accordingly, the Commissioner, Women Development and Child Welfare Department, issued instructions on 21.6.2016 to all the Project Directors to surrender the medical staff to the concerned DM & HOs for taking further necessary action. In pursuance of the said direction, the 5th respondent surrendered the posts to the 4th respondent for taking further necessary action. Challenging the said surrender, the present writ petitions are filed.

Learned counsel appearing for the petitioners submits that the petitioners are not employees of the 4th respondent and they are employees of the 6th respondent. The 4th respondent has no control over the petitioners and hence, the surrender of the

petitioners by the 5th respondent to 4th respondent is bad. He further submits that the ICDS project in Tirupati area is being undertaken by the 6th respondent instead by the Women Development and Child Welfare Department and this is a unique procedure prevailing in Tirupati area.

So far as running of the ICDS Project by the 6th respondent in respect of Tirupati area is concerned, there is no dispute.

The only point that arises for consideration is with regard to surrender of services of the petitioners by the 5th respondent to 4th respondent.

Admittedly, the petitioners are not employees of the 4th respondent and they should not have been surrendered to the 4th respondent. This is a mistake committed by the 5th respondent. The said mistake occurred due to the direction issued by the 3rd respondent in its communication dated 21.6.2016, in the peculiar facts and circumstances prevailing in Tirupati area. Now, it is clear that the Government of India is not reimbursing the expenditure pertaining to medical staff working under the ICDS Scheme. It is for the 6th respondent to undertake the working of the ICDS scheme in consultation with the 3rd respondent.

Since the ICDS scheme in Tirupati area is being

undertaken by the 6th respondent, the orders passed by the 5th respondent surrendering the petitioners to the 4th respondent are set aside and liberty is given to the 6th respondent to work out its remedies with regard to payment of salaries and other expenditure of the petitioners in consultation with the 3rd respondent.

All the Writ Petitions are accordingly disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

17th August, 2016
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