

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29511 of 2016

Dated : 09.03.2017

Between:

Dr.P.Krishnaveni, W/o M.Padma Rao

.. Petitioner

And

State of Telanagana, rep. by its Secretrary and others

.. Respondents



THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29511 of 2016

ORDER :

The petitioner challenges the order of suspension, dated 28.08.2016. She was working as Principal on Full Additional Charge basis in Durgabai Deshmukh Mahila Sabha (Andhra Mahila Sabha), an Unaided Institution.

Having regard to the statutory mandate under Section 79 of the A.P. Education Act, 1982 (for short 'the Act'), I am not recording in detail the respective contentions of the parties in the order. This Writ Petition can be disposed of without entering into any other contentions.

Section 79(2)&(3) of the Act envisages that an employee of an Aided Institution can be placed under suspension only when inquiry into the alleged gross misconduct is contemplated. Such suspension can be initially for a period of two months and if no inquiry has commenced and completed within that period, such employee shall, without prejudice to the inquiry, be deemed to have been restored as employee. However, the competent authority may, for reasons to be recorded in writing, extend the said period of two months for a further period not exceeding two months, if in the opinion of such competent authority the inquiry could not be completed within the said period of two months for reasons directly attributable to such employee.

In the instant case, the initial order of suspension was passed by the Management on 28.08.2016. After two months, suspension order is not extended by the competent authority. It is now beyond six months after the order of suspension was passed. Thus, even assuming that the competent authority extended the order of suspension, the extendable period of suspension is also over.

Learned counsel Miss.G.Sudha appearing for respondents-Institution submits that petitioner is not cooperating and therefore, inquiry could not be completed.

As seen from the language employed in Section 79(3) of the Act, even if the employee does not cooperate with the disciplinary proceedings, he/she can be under suspension for a maximum period of four months and in no case, it shall exceed four months. Admittedly, the disciplinary proceedings are not yet concluded.

It is not in dispute that the respondents-Institution is governed by the provisions of the Act. To this extent, learned counsel for the respondents-Institution fairly submits that the provisions of the Act are applicable. Having regard to the statutory mandate, the order of suspension is not sustainable.

Accordingly, the Writ Petition is allowed and the impugned order of suspension is set aside as it is hit by the mandate of Section 79(3) of the Act. It is needless to observe that this Court has not expressed any opinion on the merits of the case and the respondents can proceed with the disciplinary action against the petitioner, if already initiated. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date : 09.03.2017
ssp