

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

W.A.M.P.No.1005 of 2017 in/and W.A.No.476 of 2017

And

Writ Petition No.12089 of 2017

COMMON JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

The appellant herein is not a party to the writ petition. On the ground that the writ petition was filed without arraying him as a respondent, leave to prefer this appeal is sought by way of W.A.M.P.No.1005 of 2017. As the appellant's name is reflected in the impugned order passed by the Special Commissioner of Collegiate Education dated 31.03.2017, we see no reason to non-suit the appellant. Leave, to prefer the appeal, is accorded.

The 1st respondent-writ petitioner filed W.P. No.12089 of 2017 questioning the proceedings of the Special Commissioner of Collegiate Education, Vijayawada dated 31.03.2017 cancelling the order passed by him, just a day prior thereto, on 30.03.2017. The earlier order dated 30.03.2017 was passed by the Special Commissioner of Collegiate Education on the basis of the report of the Regional Joint Director of Collegiate Education, Rajahmundry in his letter dated 03.03.2017, approving the change of correspondent, and accepting the nomination of Sri N.Rama Satyanarayana as the new correspondent in terms of Rule 7 of the A.P. Grant-in-Aid Code read with Section 24(2) of the A.P. Education Act, 1982 (for short "the Act").

Section 24(2) of the Act stipulates that the management shall, for the purpose of this Act, nominate a person to manage the affairs of the institution, whether called by the name of Secretary, Correspondent or by any other name, and intimate such nomination within thirty days thereof to the competent authority.

Section 24(2) of the Act requires the competent authority only to be intimated, by the Management, of the nomination of a Secretary or Correspondent, and does not require his approval to such appointment.

However, Paragraph (7) of the Grant-In-Aid Code stipulates that every institution, on behalf of which aid is sought, shall be under the management of one or more persons recognised by the Department, who shall undertake to be answerable for the maintenance of the institution, and the fulfilment of all the conditions of recognition and aid including the due enforcement of such rules of discipline as are prescribed from time to time. Paragraph (7) further stipulates that applications, for change of management of institutions, should be made to the Director who shall approve the change of correspondent in respect of colleges.

Paragraph (7) of the Grant-In-Aid Code requires approval to be taken by the Management of the college, from the Director, whenever there is a change in the correspondent evidently because the Government grants aid to the college. Section 24(2) of the Act, which only requires intimation of a change in the Secretary/Correspondent, is applicable only to private institutions to which aid is not extended by the Government as, in terms of Paragraph (7) of the Grant-In-Aid Code, approval of the Director is required for a change in the Secretary/Correspondent.

The fact however remains that, having accorded approval on 30.03.2017, the Commissioner appears to have changed his mind the very next day and had cancelled the earlier order. No reasons are assigned for cancellation of the earlier order dated 30.03.2017. We are, however, saved the trouble of examining the validity of the proceedings dated 31.03.2017 as Sri S.Ravi, learned Senior Counsel appearing on behalf of the appellant, submits that, since the order under challenge in W.P.No.12089 of 2017 is only the order dated 31.03.2017, this Court may allow the writ petition itself, setting aside the order dated 31.03.2017, leaving it open to the appellant to challenge the validity of the order dated 30.03.2017 in appropriate legal proceedings. Sri Chaparla Sitaram, learned counsel for the respondent-writ petitioner, has no objection to such an order being passed. We consider it appropriate, in such circumstances, to set aside the order dated

31.03.2017 leaving it open to the appellant to question the earlier order dated 30.03.2017 in appropriate legal proceedings.

W.A.M.P.No.1005 of 2017 is ordered, the Writ Petition is allowed, and the Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

13th April, 2017
JSU



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER



W.A.M.P.No.1005 of 2017 in/and W.A.No.476 of 2017
And
Writ Petition No.12089 of 2017

Date: 13.04.2017

JSU