

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.3848 of 2009

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the inaction of respondents 1 and 2 in retaining five un-aided posts in petitioner's school, despite of recommendations of respondents 3 to 5, as illegal and arbitrary.

The facts leading to filing of the writ petition are as follows:

The petitioner-Sri Gopalaswamy Educational Society, which is registered under Societies Registration Act, 1860, has established Sri Bandaru Sriramulu Girls High School in the year 1984. The school was recognized by government and was admitted to grant-in-aid in the year 1989, in respect of salaries to be paid to incumbents of 11 teaching and 5 non-teaching posts. Salaries of other personnel were borne by the Society. While things stood thus, 20 pupils were hospitalized due to harassment made by the three teachers, who were admonished by the management of the school, for poor performance of the students. As such, the Deputy Educational Officer, Kadapa, by his order dated 21.11.2000, directed the school to report the action taken with regard to the incident of harassment on students. Since serious allegations were made against the three teachers, they were suspended and an enquiry was said to have been conducted by the Deputy Educational Officer. The management of the school was not put to any notice with regard to said enquiry and no enquiry report was also served on the management. Several representations were made by the school seeking extension of suspension under section 79 (3) (b) of A.P. Education Act, 1982.

Notwithstanding the same, the Management was directed to reinstate the teachers and also to pay salaries to those teachers for the suspension period. Further, the District Educational Officer vide proceedings dated 11.06.2002, appointed the Deputy Educational Officer as a Special Officer to assume charge as Correspondent of the school and to look after the administration as well as the financial matters of the school. Aggrieved by the same, petitioner filed WP No.10895 of 2002, wherein this Court granted interim direction on 19.06.2002 which was made absolute on 05.02.2003. Subsequent thereto, the 4th respondent passed an order dated 22.02.2003, shifting the five teachers along with their grant-in-aid posts, thereby brining the functioning of the school to a halt. The District Collector-5th respondent, after making enquiries, sent recommendations to the Director of School Education dated 09.12.2006, that five surplus posts shall be identified in the District and re-transferred or shifted to petitioner's school. Thereafter, on the instructions of the 3rd respondent-Regional Joint Director of School Education, the Deputy Educational Officer conducted an elaborate enquiry and sent a report dated 05.10.2007, concluding that there is a need to retain five aided posts in the said school. Finally, the third respondent vide letter dated 08.05.2008, made recommendations to the second respondent stating that it is justifiable to retain five aided posts in petitioner's school. The grievance of the petitioner is that in spite of recommendations of respondents 3 to 5, the respondents 1 and 2 have not acted upon. Aggrieved by the same, the present writ petition came to be filed.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Education, for respondents.

Though various grounds are raised in the writ petition, the learned counsel for the petitioner restricts his prayer seeking a direction to respondents 1 and 2 to consider the recommendations made by respondents 3 to 5 for retention of grant in aid posts to the petitioner's school.

Learned AGP for Education opposes the same, but however, submits that since no representation has been made till date, the petitioner may be directed to make an application along with relevant material, in which event, the second respondent would consider the same in accordance with law.

Recording the statement made by the learned AGP across the Bar, the Writ Petition is disposed of directing the petitioner to make an application to the second respondent seeking retention of teachers/grant in aid posts, along with copies of the recommendations said to have been made by respondents 3 to 5, in which event, the second respondent shall deal with the same in accordance with law, more so in view of subsequent lifting of ban by the government, as early as possible, preferably within a period of four to eight weeks from the date of receipt of a copy of this order.

Miscellaneous petitions pending in this petition, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

21.08.2017
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