

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.7318 of 2000

ORDER:

Petitioners belong to the Scheduled Tribe community and some of them possess S.S.C. qualification while others possess Intermediate and Graduation qualification. The petitioners were appointed as Teachers in Girijana Vidya Vikas Kendras located in Agency Areas in Bhadrachalam Division, Khammam District by respondent No.2 herein. Petitioner No.1 was appointed on 31.07.1997, petitioner No.4 was appointed on 22.02.1997, petitioner No.8 was appointed on 31.07.1997, petitioner Nos.11, 14 and 20 were appointed on 22.02.1997, petitioner No.27 was appointed on 12.03.1997, petitioner No.29 was appointed on 10.07.1998, petitioner Nos.30, 31 and 33 were appointed on 22.02.1997, petitioner Nos.40, 44 and 48 were appointed on 09.09.1997 and petitioner No.49 was appointed on 22.02.1997. The remaining petitioners were appointed on 19.01.1997.

2. Petitioners contend that as per G.O.Ms.No.46 Education (PROG.2) Department dt.07.02.1994, minimum qualification of X Class pass for local tribals was prescribed for appointment as Teachers on regular scale in primary schools in school less tribal villages; the said schools were to be known as "Girijana Vidya Vikasa Kendras"; and that having appointed the petitioners on the basis of their possession of X class certificates as Teachers in the Girijana Vidya Vikasa Kendras, the respondents ought to have regularised their

services from the date of their initial appointment and not two years later. They also contend that the conditions imposed in the orders of appointment issued to the petitioners stating that their appointment is on temporary basis on consolidated pay subject to their acquiring the higher qualification of T.T.C., is contrary to G.O.Ms.No.46 dt.07.02.1994. They contend that several representations were given through their Union to the respondents but the respondents have acted arbitrarily and did not regularise their services from the dates of their initial appointment.

3. Therefore, they seek a writ of *Mandamus* directing the respondents to regularise their services as Teachers in Girijana Vidya Vikasa Kendras from the dates of their initial appointment.

4. Counter-affidavit is filed by respondent Nos.1 and 3 contending that petitioners' appointments were made on the basis of G.O.Ms.No.238 Education (Ser.III) Department dt.28.07.1994; that they were appointed on consolidated pay of Rs.1,200/- per month for the first year and Rs.1,500/- per month for the second year on apprenticeship basis; and they would be eligible for regular time scale and increments only when they acquire T.T.C./B.Ed., qualification. It is stated that G.O.Ms.No.46 dt.07.02.1994 was issued by the State Government, but no teacher recruitment was done and when petitioners were appointed as Teachers in Girijana Vidya Vikasa Kendras, G.O.Ms.No.238 dt.28.07.1994 had come into operation. Respondents contend that in terms of the said G.O.Ms.No.238,

Government has sanctioned consolidated amount of Rs.1,200/- per month for the first year and Rs.1,500/- per month for the second year, which would cover apprenticeship period of two years, and that is why, petitioners were not entitled to regular time scale from the dates of their initial appointment.

5. G.O.Ms.No.238 Education (SER.III) dt.28.07.1994 states that for recruitment of teachers in Government, Zilla Parishad and Mandal Parishad Schools, G.O.Ms.No.221 dt.16.07.1994 had been issued wherein Rule 19 stated that every selected candidate would be initially appointed as apprentice for a period of two years from the date of appointment; and that during the period of apprenticeship, he would be paid monthly stipend at Rs.1,200/- per month for the first year and Rs.1,500/- per month during the second year.

6. This G.O. thus applies only to recruitment of teachers in Government, Zilla Parishad and Mandal Parishad Schools. It does not apply to appointment of teachers in Agency Areas. As regards Agency Areas, G.O.Ms.No.302 Education (EE-2) Department dt.10.07.1986 originally prescribed that local tribals with qualification of X class pass or fail would be appointed as teachers in the regular scale in the primary schools in the agency areas where schedule tribes live. This G.O. was subsequently modified by G.O.Ms.No.46 Education (PROG.2) Department dt.07.02.1994 stating that local tribals with minimum qualification of X class pass shall be appointed as teachers on regular basis in the primary schools in school less tribal

villages and that such schools shall be called “Girijana Vidya Vikasa Kendras”. It is not in dispute that the petitioners are Scheduled Tribes; that they possess minimum qualification of X Class; and they were appointed in the Girijana Vidya Vikasa Kendra in 1997 and 1998 respectively at which point of time, G.O.Ms.No.46 dt.07.02.1994 was in force.

7. The contention of the respondents that no teacher recruitment was done after G.O.Ms.No.46 dt.07.02.1994 was issued is not correct since the petitioners were recruited after the said G.O. was issued. No Government Order is placed on record by the respondents before this Court to show that the said G.O.Ms.No.46 dt.07.02.1994 was not in force at the time when the petitioners were appointed.

8. It is thus clear that in the appointment orders issued to the petitioners individually, the respondents wrongly mentioned that the petitioners were apprentices who would be paid consolidated pay and who would get regular scale if they pass T.T.C./B.Ed. exam and that their appointment is temporary till then. Obviously, the respondents had misapplied G.O.Ms.No.238 dt.28.07.1994 to the petitioners though the employment of the petitioners was not in Government, Zilla Parishad or Mandal Parishad Schools, but in Girijana Vidya Vikasa Kendras i.e., school less tribal villages in agency areas, which are governed by G.O.Ms.No.46 dt.07.02.1994.

9. It is pertinent to note that G.O.Ms.No.45 Social Welfare (TW.SER.III/A1) Department dt.28.06.2011 was issued by the then Government of Andhra Pradesh framing the Andhra Pradesh Tribal Welfare Subordinate Service Rules in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India specifically mentioning with regard to recruitment of Secondary Grade Teachers of Girijana Vidya Vikasa Kendras that the relaxation given in G.O.Ms.No.46 dt.07.02.1994 will be applicable to teachers employed therein only and not to others.

10. Thus, the State has recognised the clear distinction between teachers employed in agency areas and teachers employed elsewhere, and treated teachers employed in Girijana Vidya Vikasa Kendras, which were renamed as “Government Primary Schools” (Tribal welfare) under the said G.O., as validly appointed with X Class pass alone as prescribed in G.O.Ms.No.46 dt.07.02.1994 without having to possess higher qualifications of T.T.C./B.Ed.

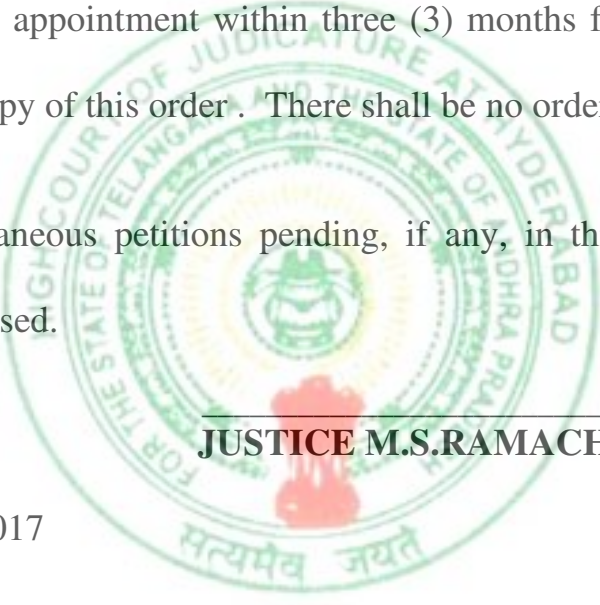
11. I also find that the respondents erred in appointing the petitioners ‘temporarily’ as Teachers in the Girijana Vidya Vikasa Kendras in spite of G.O.Ms.46 dt.07.02.1994 specifically directing that they shall be appointed as teachers on ‘regular scale’ if they possess qualification of X class.

12. Thus, the action of the respondents is clearly contrary to G.O.Ms.No.46 dt.07.02.1994 and they have acted arbitrarily and

illegally in denying the petitioners a regular scale from the dates of their initial appointment and giving them regular scale two years after their initial appointment by wrongly treating them as apprentices.

13. Accordingly, the Writ Petition is allowed and the respondents are directed to treat the petitioners as having been regularly appointed in the regular scale of post of Teachers in Girijana Vidya Vikasa Kendras on the respective dates of their initial appointment and pay them the regular scale payable for the two years period from the dates of their initial appointment within three (3) months from the date of receipt of a copy of this order . There shall be no order as to costs.

14. Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.



JUSTICE M.S.RAMACHANDRA RAO

Date: 16.08.2017
AMD

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO



WRIT PETITION No.7318 of 2000

DATE: 16.08.2017

AMD