

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos.8486 and 8471 of 2012, 21738, 24001, 24057, 24374, 24490, 25285, 28148, 28692, 30374 and 33621 of 2013, 1224, 1793, 19936, 33934, 35566 and 36277 of 2014, 8235 and 8286 of 2015

Common Order:

All these Writ Petitions are being disposed of by this common order, as the petitioners are employees of Kasturiba Gandhi Balika Vidyalaya (KGBV) which is run by the A.P. Kasturiba Gandhi Balika Vidyalaya Society, Hyderabad.

Kasturiba Gandhi Balika Vidyalayas (KGBVs) were established by the Government of Andhra Pradesh as a part of centrally sponsored scheme. The scheme was initially launched in the year 2004 for setting up of residential schools at upper primary level for girls predominantly belonging to SC, ST, OBC and Minority communities. They were initially under the control of A.P. Residential Educational Institutions Society. Thereafter, a society was formed and all these Vidyalayas were brought under its control. These Vidyalayas have been functioning under the supervision of State Project Director, Rajiv Vidya Mission (Sarva Siksha Abhayan). It is stated that 395 Vidyalayas have been running with effect from 2005-06 in the State of Andhra Pradesh. In addition to the said Vidyalayas, another 348 new Vidyalayas were sanctioned by the Government of India. The said Vidyalayas are running with the assistance of ministerial staff including the post of Accountant. Thus, the petitioners have been working as ministerial staff in the said Vidyalayas. They were recruited in the year 2005 onwards. There were no complaints against the petitioners. When there was a proposal to recruit non-teaching staff to the detriment of the petitioners, the present Writ Petitions were filed.

This Court, by interim orders dated 30.09.2013, granted *status quo*, as a result of which the petitioners have been continuing.

A counter affidavit is filed stating that the Government of India's share is 75% and the State's share is 25% in the expenditure incurred for running the Vidyalayas. Initially, the Government of India released Rs.18.2377 Crores for setting up of 88 KGBVs as per Model-I and 6 KGBVs as per Model-II totalling to 94 blocks in 94 Mandals in the first instance. Accordingly, the Government of Andhra Pradesh accorded administrative sanction to establish 94 Vidyalayas vide G.O.Ms.No.93, dated 05.07.2005. Later on, the share of the Government of India and State Government is modified to 65:35. The Government of Andhra Pradesh further issued G.O.Ms.No.59, dated 22.08.2007, according permission to 208 KGBVs during the academic year 2007-08. 130 KGBVs were entrusted to APSWREIS, but the A.P. Social Welfare Department Society expressed technical difficulties in operating all the 130 KGBVs allotted to it except 20 institutions. Accordingly, only 20 KGBVs located in Tribal mandals were allocated to APTWREI Society. The remaining 90 KGBVs were additionally allotted to APREI Society and orders were issued accordingly in G.O.Ms.No.110, School Education Department, dated 28.11.2007. The Project Officers were permitted to take action for appointment of teaching and non-teaching staff and other infrastructure within the vicinity of the district and accordingly recruitments were made within the district as per the requirement of KGBV within the ambit of budgetary provision released from time to time to the Project Officers. It is admitted that the petitioners have been working as employees of KGBVs. Certain guidelines were issued on 17.10.2005 by the A.P. Residential Educational Institutions Society regarding recruitment of part-time teachers and supporting staff.

According to the same, Clerk/Accountant appointment shall be made by local committee constituted for the purpose duly following the guidelines and the contract initially given shall be renewed based on the performance. Due to exigencies of service the non-graduates in Commerce were appointed initially and now it is noticed that they are not keeping the books of accounts in proper way because they have lack of commerce knowledge. In those circumstances, it was decided to introduce single policy in all the KGBVs of the State. Accordingly, steps are being taken for engaging teaching and non-teaching staff in all KGBVs with qualified personnel and women candidates from the academic year 2013-14 onwards. Hence, it was decided to terminate the services of the candidates who were not possessing the requisite qualifications and the services of some male candidates as the schools are meant for girls. It is also stated that when the guidelines were challenged in W.P.No.24140 of 2013, the same was disposed of on 09.07.2013 upholding the guidelines. In those circumstances, they sought vacation of the interim orders.

Learned counsel for the petitioners submits that the qualifications are prescribed after appointment of the petitioners and those qualifications cannot be insisted for the petitioners who were recruited earlier and gained experience.

It is admitted in the counter affidavit itself that due to exigencies of service no qualifications were prescribed and several appointments had taken place based on the requirement and by virtue of the interim orders the petitioners have been continuing in service as on today.

As per the revised guidelines for the year 2012-13, the Collector shall be the Chairperson for recruitment of staff and the committee includes four other members apart from Project Officer of Sarva Shiksha

Abhiyan as Member Convener. The procedure for recruitment was also mentioned therein. Ultimately, the qualifications prescribed are as follows:

“(b) The qualifications for the Special Officer and Teaching Staff are as follows:

Special Officer	Regular teachers working as Post Graduate Trained Teachers in Residential Schools of the Societies concerned, the Head Mistress of Govt/ZP/Municipal High Schools and the School Assistants working in Govt/ZP/Municipal Schools (minimum 5 years experience) shall be taken on work deputation basis/foreign service if the regular staff mentioned are not available, then recently retired Women MEOs and HMs as also shall be taken on contract basis as a stop gap arrangement till regular arrangements are made.
Teachers	Graduation in the subject concerned and professional qualification B.Ed or its equivalent. For language teachers, qualifications prescribed for Pandits may be followed.
Accountant	Graduation in Commerce
Attender	10 th Class Pass (Female who has crossed 18 years of age)
P.E.T	Intermediate and Under Graduate Diploma in Physical Education
Art & Vocational Teacher	SSC and Certificate Course in the concerned area from the recognised Institutions
ANM	SSC or its equivalent with ANM Training Certificate

The Staff pattern – Teaching/Non-Teaching is as follows:

“(c) Staff Pattern – Teaching / Non-Teaching

Special officer – 1 (Woman)

Subject Teacher (Woman) @ one per subject i.e., Maths, English, Telugu, Hindi, Physical Science, Bio-Science, Social Studies.

PET – 1 (Woman)

ANM Nurse – 1 (Woman)

Art/Vocational Teacher – 1 (Woman)

Craft Teacher – 1 (Woman)

Accountant (1)

Attender (1)

Day watch woman (1)

Night Watch man (1)

Sweeper-cum-Scavenger (1)
Cook (1) if 200 strength 2 Head Cooks
Kitchen Helpers (2)”

It is stated that newly formed KGBV Society shall monitor the functioning of the KGBVs. Though the KGBVs were entrusted to different societies and Project Officers of RVM, the societies have their own monitoring system. Apart from the above stipulations, the guidelines provide for medium of instruction, supply of uniforms, diet charges, infrastructure, payment of bills and salaries to the staff, maintenance of sanitary conditions, audit etc. We are not concerned with those guidelines and the guidelines relating to recruitment of staff alone is involved in the present batch of cases.

There is no dispute that all the petitioners were appointed prior to the above guidelines issued for the year 2012-13. There is no allegation of any misconduct or lack of experience against the petitioners. The Government of India evaluated the working of the KGBVs and prepared a National Report in November-December 2013 and with regard to the teachers and staff it was provided that the Government of India should issue clear instructions to ensure female staff is appointed and that no male staff will be permitted to live in the KGBV or have unrestricted access to the living area of the girls. It is also pointed out that the students or girls of 11 + years are vulnerable and evidence from across the world revealed that children become targets of physical and sexual abuse. In all these cases, the petitioners are working as non-teaching staff. In some cases, it is alleged that they are being replaced by outsourcing personnel though they have been continuing for several years.

In the circumstances, these Writ Petitions are disposed of directing the respondents to continue the services of the petitioners, if they are

continuing as on today, and consider their cases for regularization, if permissible and if they are found fit for discharging their work (without having the requisite qualifications mentioned in the Circular issued in the year 2012-13). If for any reason they are not found fit and in case any action is sought to be taken against them, appropriate notice shall be given to the petitioners. They shall not be permitted to live in the KGBV or have unrestricted access to the living area of the girls. However, if any future vacancies arise and any recruitment takes place hereafter, they shall be filled with female staff to the extent possible. It is needless to observe that the said recruitment shall be in accordance with the guidelines issued in the year 2012-13 subject to fulfilment of the qualifications mentioned therein and rule of reservation applicable to the posts. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

Date: 15.12.2017
Nsr

A. RAMALINGESWARA RAO, J