

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

WRIT APPEAL NO.1292 OF 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in WP.MP.No.13244 of 2017 in WP.No.10684 of 2017 dated 24.08.2017.

The appellants herein are the petitioners in the Writ Petition wherein they questioned the validity of the proceedings dated 17.08.2016 issued by the Secretary, Board of Intermediate Education permitting the fourth respondent to start a Junior College; and to admit students from Venkatagiri Town.

Sri P.V.Krishnaiah, learned counsel for the appellants-writ petitioners, would submit that grant of permission to the fourth respondent-College is contrary to Section 20 of the Andhra Pradesh Education Act, 1982 ("the Act" for brevity); no assessment was made of the need to establish a Junior College in Venkatagiri; no notification was issued inviting applications from all interested persons; the College was granted permission for the mere asking; and the fourth respondent has been permitted to run a junior college in blatant violation of the provisions of the Act.

Sri Tarun G.Reddy, learned counsel for the fourth respondent, would place reliance on a Full Bench judgment of this Court in **Society of St. Ann's and The Rayalaseema**

Navodaya Minorities Christian Educational Society, rep.by its President, Babuchandra Paul v. The Secretary to Government, Education Department and Ors.¹ In this

judgment, the Full Bench considered the scope of Section 18 of the Act. Sri P.V.Krishnaiah, learned counsel for the appellants, would submit that the Full Bench judgment has no application to the present case, as Section 18(b) of the Act confers power on the State Government to permit any private body of persons to establish educational institutions, and maintain them according to such specific provisions as may be prescribed; the power conferred on the Government to grant permission under Section 18(b) of the Act is not unfettered, but is circumscribed by the requirement that these private body of persons establish educational institutions, and maintain them according to such specifications as may be prescribed; the impugned order makes no reference to any rule in terms of which the College can be established; and if such Colleges are permitted to be established, it would result in a collapse of the educational system in the State.

While the submission of Sri P.V.Krishnaiah, learned counsel for the appellants-writ petitioners, that the fourth respondent-College was granted permission to establish a junior college in contravention of Section 20 of the Act, cannot be said to be without merit, it is the specific case of the fourth respondent that they have already admitted students, and are running the College. Any *ad-interim* order of suspension would result in these students not being able to pursue their education

¹ 1993(2) ALT 610

for no fault of theirs, for it is only if the Writ Petition is finally heard can this Court, even if it were to be satisfied that establishment of the 4th respondent-College is illegal and contrary to the provisions of the Act, make alternate arrangements for admission of these students in other colleges. The order of the learned Single Judge, dismissing the WPMP, would result in the Writ Petition being taken up for hearing after several years, and the fourth respondent running their college unhindered in the interregnum.

We are satisfied that the matter requires an earlier hearing, if need be, at the interlocutory stage itself. Such an exercise can, however, be undertaken by the learned Single Judge only if the respondents file their counter affidavits. The State Government, the Board of Intermediate Education, and the fourth respondent shall file their respective counter-affidavits within two weeks from today. It is open to the appellants-writ petitioners to request the learned Single Judge to take up the WPMP on any day, after two weeks from today, for hearing.

The order of the learned Single Judge, dismissing WP.MP.No.13244 of 2017 in WP.No.10684 of 2017, is set aside, and W.P.M.P. No.13244 of 2017 is restored to file. While the students already admitted by the fourth respondent cannot be made to suffer for no fault of theirs, even before an adjudication of the validity of the permission granted to the 4th respondent by the State Government and the Board to Intermediate Education, the fourth respondent shall not admit any students henceforth as it does appear, *prima facie*, that the permission granted to

them to establish a junior college is in contravention of Section 20 of the Act.

The Writ Appeal is disposed of accordingly. It is made clear that it is open to the parties on either side to put forth all such contentions, as are available to them in law, before the learned Single Judge. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

18th September 2017
RRB



(J.UMA DEVI, J)