

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

WRIT APPEAL No. 52 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 order passed by the learned Single Judge in WPMP.No.46125 of 2016 in W.P.No.37432 of 2016 dated 02.11.2016, whereby the order of suspension dated 07.10.2016, passed by the 3rd respondent in the writ petition, was suspended pending further orders.

In the order under appeal, the learned Single Judge recorded that the reasons mentioned for suspending the petitioner, in terms of the impugned order dated 07.10.2016 issued by the District Educational Officer, Nizamabad, appeared to be incorrect having regard to the proceedings of the Director of School Education dated 04.03.2016, wherein it was merely alleged that the petitioner did not discharge her duties with regard to the proper functioning of Madrasas; and these proceedings were relied upon by the 3rd respondent to pass the impugned order. Interim suspension was granted on the ground that there appeared to be non-application of mind by the 3rd respondent.

By his proceedings dated 04.03.2016, the 2nd respondent informed the 3rd respondent that certain irregularities had occurred in payment of honorarium to Vidya Volunteers working in Madarasas of Hyderabad District; and the enquiry officer had suggested that the petitioner, an Assistant Academic Monitoring Officer, be repatriated as she was not able to discharge her duties with regard to the proper functioning of the Madarasas. The District Educational Officer, Nizamabad was directed to

initiate disciplinary action against the petitioner, and to report compliance. The proceedings of the Director of School Education dated 04.03.2016 makes no mention of the petitioner being required to be placed under suspension. However, in the impugned order dated 07.10.2016, the 3rd respondent, after referring to the order of the Director of School Education dated 04.03.2016, thought it necessary to place the petitioner under suspension with immediate effect. Except for a reference to the Government Memo dated 20.07.2016, and the subsequent proceedings of the Director of School Education dated 04.03.2016, neither has any other document been referred to by the District Educational Officer, Nizamabad, nor does the impugned order state why, despite the Director of School Education only directing initiation of disciplinary proceedings against the petitioner, the District Educational Officer, Nizamabad, considered it necessary to suspend the petitioner pending disciplinary action being initiated against her.

This Court, in an intra-Court appeal under Clause 15 of the Letters Patent, would interfere with the order of the learned Single Judge only if the said order suffers from a patent illegality. The prima facie view of the learned Single Judge, that the impugned order suffers from non-application of mind, cannot be said to so patently illegal as to necessitate interference in an intra-court appeal under Clause 15 of the Letters Patent. It is always open to the appellants herein to file a counter affidavit furnishing reasons which necessitated them to place the petitioner under suspension, and seek vacation of the interim order passed by the learned Single Judge.

Suffice it to make it clear that, in case a petition is filed for vacation of the interim order, the said petition shall be considered on its merits without being influenced by any observations now made by us in this order.

The writ appeal fails and is, accordingly, dismissed.

Miscellaneous petitions, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 18.01.2017
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