

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**

Writ Appeal No.981 of 2017 and Writ Petition No.23277 of 2017

COMMON 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 W.P.No.23277 of 2017 dated 13.07.2017. In the order under appeal the Learned Single Judge observed that, having regard to the earlier order passed by this Court and the stand taken in the civil litigation vide O.S.No.85 of 2017 on the file of the II Additional District Judge, Krishna at Vijayawada, there shall be interim suspension of the order impugned therein for a period of three weeks.

Facts, in brief, are that the appointment of the 2nd respondent (petitioner No.2 in the writ petition) as the Correspondent of the 1st respondent-college was approved by the Special Commissioner of Collegiate Education on 30.03.2017. Curiously on the very next day i.e on 31.03.2017, on a revision filed by the appellant (4th respondent in the writ petition) on the same day (31.03.2017), the Special Commissioner cancelled the orders issued on 30.03.2017 for change of correspondentship in favour of the 2nd respondent (petitioner No.2 in the writ petition) as the new correspondent. Aggrieved thereby, the society running the college, of which the 2nd respondent was the Secretary and Correspondent, filed W.P.No.12089 of 2017 and, by an interlocutory order in W.P.M.P.No.15045 of 2017 in W.P.No.12089 of 2017 dated 06.04.2017, a Learned Single Judge granted interim suspension of the proceedings dated 31.03.2017 on being satisfied that the order issued on 30.03.2017 was cancelled by proceedings dated 31.03.2017 by the very same authority.

Aggrieved thereby, the appellant filed W.A.No.476 of 2017 and, by order dated 13.04.2017, a Division Bench of this Court observed that, having accorded approval on 30.03.2017, the Commissioner had changed his mind on the very next day, and had cancelled the earlier order; and no reasons were assigned for cancellation of the earlier order dated 30.03.2017. However, taking note of the submission urged by the learned Senior Counsel appearing on behalf of the appellant in W.A.No.476 of 2017 that the writ petition itself be allowed and the impugned order dated 31.03.2017 be set aside leaving it open to the appellant to challenge the validity of the earlier order dated 30.03.2017 in appropriate legal proceedings, the order impugned in the writ petition dated 31.03.2017 was set aside leaving it open to the appellant to avail his legal remedies. Thereafter, the appellant preferred an appeal to the Government which passed the order impugned in the present writ petition.

In the said order dated 29.06.2017, the Special Chief Secretary to the Government recorded the contents of the appeal petition filed by the appellant in paragraph 1. He also took note of the report of the Special Commissioner of Collegiate Education dated 15.05.2017, and the submission urged on behalf of Sri G.Prajapathi Rao that the matter was subjudice, and directed all the parties to furnish written statements/objections, within 15 days from the date of receipt of the memorandum, to the enquiry officer through the Special Commissioner of Collegiate Education. Thereafter, the Special Chief Secretary passed the following order:

“Against the above backdrop and after careful examination of the entire matter the Government hereby order that Status Quo prior to 30.03.2017 is restored duly superseding the proceedings of Special Commissioner of Collegiate Education 30.03.2017.

The Special Commissioner of collegiate Education,
Vijayawada, shall take necessary action in the matter”

On this order being subjected to challenge before him, the Learned Single Judge has in the order under appeal, after taking note of the earlier order passed by the Division Bench and the stand taken in the civil litigation in O.S.No.85 of 2017 granted interim suspension of the order dated 29.06.2017.

We must express our inability to agree with the submission of Sri S.Ravi, learned Senior Counsel appearing on behalf of the appellant (4th respondent in the writ petition), that the contents in paragraph 1 of the impugned order are the reasons assigned by the Special Chief Secretary in passing an order of *status quo ante* as on 30.03.2017. It is evident, from a bare reading of the order itself, that paragraph 1 thereof is merely a summary of the appeal petition filed by the appellant before the authority, and do not constitute the reasons for passing an order of *status quo ante*. All that the Special Chief Secretary has done is to take note of the submissions of the Appellant, Sri G.Prajapathi Rao and the report of the Commissioner of Collegiate Education; and has, thereafter, passed an order of *status quo* without assigning any reasons as to why, in effect, the order dated 30.03.2017 should be superseded albeit temporarily.

As the 2nd respondent (petitioner No.2 in the writ petition) was permitted to continue from 30.03.2017 till the impugned order was passed on 29.06.2017, the Special Chief Secretary was obligated to assign reasons for directing *status quo ante* to be restored as on 30.03.2017. As the impugned order is bereft of reasons, the order of the Learned Single Judge cannot be faulted.

Sri S.Ravi, learned Senior Counsel, would submit that no useful purpose would be served in keeping the writ petition pending on the file

of this Court and, instead, this Court may consider directing the 3rd respondent herein to dispose of the appeal itself within a specified time frame preferably within a period of one month from today. Both Sri A. Sudershan Reddy, learned Senior Counsel appearing on behalf of the respondent-writ petitioner, and the learned Government Pleader for Higher Education (AP), readily agree for such an order to be passed.

Sri S.Ravi, learned Senior Counsel, would, however, point out that no useful purpose would be served in the appeal being entertained, in the light of the observations of the Learned Single Judge that the order of the Civil Court in O.S.No.85 of 2017 necessitates suspension of the impugned order. While Sri A.Sudershan Reddy, learned Senior Counsel, would point out that the order in I.A.No.362 of 2017 in O.S.No.85 of 2017 dated 26.04.2017 only records the submission of the appellant not to dispossess the 2nd respondent, the fact remains that the suit in O.S.No.85 of 2017 was filed not by the 2nd respondent (2nd petitioner in the writ petition) but by the society represented by its Secretary Sri G.Prajapathi Rao; and, consequently, the order passed in an interlocutory application therein would not disable the Special Chief Secretary from considering the appellant's appeal on its merits.

Suffice it to make it clear that the appellant's appeal shall be considered and decided in accordance with law, uninfluenced either by the order in I.A.No.362 of 2017 in O.S.No.85 of 2017 dated 26.04.2017 or by the observations made in the order under appeal or in the order now passed by us, at the earliest and, in any event, not later than six weeks from the date of receipt of a copy of this order. Needless to state that, before passing such an order, the appellate authority shall give all the parties thereto a reasonable opportunity of being heard. He shall also assign reasons for the order which he is now required to pass in accordance with law.

As the order, impugned in the writ petition, is itself being set aside, nothing survives in the writ petition. Both the Writ Appeal and the Writ Petition are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

20th July, 2017
JSU



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**



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Date: 20.07.2017

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