

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT APPEAL No.1135 of 2017

Date:23.8.2017

Between:

N.Rama Satyanarayana,
S/o Ramalinga Murthy

..... Appellant

And:

Dr. B.Ch.Sangeetha Rao,
S/o Bonigala Rama Rao and three others.

.....Respondents

Counsel for the appellant: Mr. P.Roy Reddy

Counsel for respondent No.1: Mr. Raja Reddy Koneti

Counsel for respondent No.2: AGP for Education (AP)

The Court made the following:

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal arises out of order, dated 27.7.2017, in WPMP.No.30901 of 2017 in Writ Petition No.24944 of 2017.

The genesis of the dispute originally pertains to the correspondentship of an educational institution, viz., Satavahana College, Seetarampuram, Vijayawada.

The proceedings of respondent No.3 approving the appointment of the appellant as Correspondent were recalled within a day of such approval. This was challenged by the appellant by way of filing a Writ Petition. A learned single Judge of this Court has suspended the cancellation of approval order. The Writ Appeal filed by the rival claimant was disposed of at his instance permitting him to file an appeal. Accordingly, the rival claimant for correspondentship has filed an appeal before respondent No.2, who passed an order granting *status quo ante* with respect to the correspondentship. This order was again challenged by the appellant in another Writ Petition, wherein the same was suspended. The said order was carried in appeal by the rival claimant. Again on his concession, a Division Bench while not interfering with the order of the learned single Judge allowed the said Writ Appeal and directed the appeal to be disposed of. Admittedly, the appeal is pending before respondent No.2. It is in this scenario that the dispute with regard to the

appointment of In-charge Principal arose. The appellant claimed that he has appointed respondent No.4-Lecturer in Physics as In-charge Principal on 31.3.2017. The rival claimant also claimed that he has appointed respondent No.1 as In-charge Principal on the same day. When respondent No.1 was not permitted to act as Principal, he has filed Writ Petition No.24944 of 2017 seeking the following relief:

“... to issue an appropriate writ, order or direction, particularly, one in the nature of Writ of Mandamus declaring the action of the respondents in not allowing the petitioner to continue as Principal as arbitrary, illegal, violative of Articles-14, 16 and 21 of the Constitution of India and violative of principles of natural justice and consequently, to direct the respondents to allow the petitioner as Principal FAC and to pass such other order or orders appropriate in the case.”

He has also filed WPMP.No.30901 of 2017 seeking the following interim relief:

“.. to issue a direction to the respondents to allow the petitioner to continue as Principal pending disposal of Writ Petition No.24944 of 2017.”

The learned single Judge in the impugned order while observing that the learned Government Pleader for Education (Andhra Pradesh) took notice for respondent Nos.2 and 3, ordered notice to the Correspondent, who was shown as respondent No.3 therein and to respondent No.4. The learned

single Judge has also granted the interim direction as prayed for, on the reasoning that respondent No.1 is senior to respondent No.4 and that removal of respondent No.1 as Principal and appointing respondent No.4 in his place appears to be arbitrary.

Mr. P.Roy Reddy, the learned counsel for the appellant, has submitted that the interim relief granted by the learned single Judge has the effect of granting the final relief at the interlocutory stage, even without hearing the respondents in the Writ Petition and that, therefore, the same is liable to be set aside on this ground alone. He has further submitted that while respondent No.4 is a Lecturer in Physics, respondent No.1 is only a Lecturer in Physical Education and as such, respondent No.1 was not entitled to be appointed as Principal.

Mr. Raja Reddy Koneti, learned counsel for respondent No.1, while seeking to support the impugned order of the learned single Judge, submitted that his client is senior to respondent No.4 apart from being qualified to be appointed as Principal and that, therefore, the learned single Judge has rightly granted the interim direction.

As the afore-mentioned WPMP as well as the Writ Petition are pending before the learned single Judge, we refrain from expressing our conclusive opinion on the merits of the case. However, for the limited purpose of disposal of this Writ Appeal,

we need to observe that the relief claimed by respondent No.1 in the Writ Petition is couched in a negative manner and the real effect of such relief, if granted, would be to direct the Management of Satavahana College, Vijayawada, to allow him to continue as Principal. The interim relief sought by respondent No.1 is precisely to the same effect. While in law, there is no bar on the Court in granting an interim relief, which may have the effect of granting the final relief, if the facts of the case so warrant, in our opinion, before granting such relief, the Court must necessarily hear all the parties after considering the pleadings, if any, filed by them.

In the instant case, none of the respondents in the said Writ Petition were heard by the learned single Judge while granting the interim relief which, undoubtedly, has the effect of granting the main relief at the ad interim stage.

In this view of the matter, we are of the opinion that the impugned order of the learned single Judge cannot be sustained and the same is, accordingly, set aside. The appellant and respondent No.4 are permitted to file their respective counter-affidavits in the said Writ Petition within three weeks from today. Liberty is given to respondent No.1 to move the learned single Judge for disposing of WPMP.No.30901 of 2017 expeditiously. In such event, we have no doubt that the learned

single Judge will hear all the parties and dispose of WPMP.No.30901 of 2017 expeditiously.

Subject to the above observations, the Writ Appeal is allowed.

As a sequel to disposal of the Writ Appeal, WAMP.No.2163 of 2017 is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

23rd August 2017
DR

