

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

**Writ Petition Nos.3460 and 3429 of 2010, 27810 of 2007 and 1107,
2927, 18949 and 23884 of 2008**

Common Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

In all these writ petitions, the constitutional validity of the Andhra Pradesh Private Aided Educational Institutions Employees (Regulation of Pay) Act, 2005 (hereinafter called "the 2005 Act"), especially re-introducing Sub-Section (2) of Section 1, Section 3 and Sections 4(1) and 4(2), is questioned as being illegal, arbitrary and unconstitutional, contrary to the undertaking given before this Court in W.P. No. 3849 of 2001 and batch, and to declare that the petitioners are entitled for release of the revised Pay Scales, 2005 in terms of the proceedings dated 16.12.2005 and 31.12.2005 issued by the District Educational Officer, Nalgonda.

Before the 2005 Act was enacted and brought into force with effect from 29.10.2005, the Governor of Andhra Pradesh had issued the A.P. Private Educational Staff (Regulation of Pay) Ordinance No. 3 of 2005 (hereinafter called "the 2005 Ordinance"). The said Ordinance stood repealed by Section 7 of the 2005 Act.

The validity of the 2005 Ordinance was the subject matter of challenge in **Y. Sidda Reddy vs. Government of Andhra Pradesh & Others**¹ and a Division Bench of this Court, while upholding the vires of Section 3 of the 2005 Ordinance, declared Section 4(1) of the 2005 Ordinance unconstitutional, and as being irrational and arbitrary. The Division Bench held that, except in so far as

¹ 2006 (3) ALD 546 (DB)

the 2005 Ordinance dealt with the aspect of pension, the rest of the Ordinance was unconstitutional. In effect, the validity of the 2005 Ordinance, in so far as it related to pension, was upheld and the rest of the 2005 Ordinance was declared unconstitutional.

Both the learned Advocate General appearing on behalf of the State of Andhra Pradesh, and the learned Special Government Pleader appearing on behalf of the learned Advocate General for the State of Telangana, would fairly state that the 2005 Act is a verbatim extract of the 2005 Ordinance. If that be so, the very same reasons which weighed with the Division Bench in declaring the 2005 Ordinance unconstitutional, except in so far as it dealt with the aspect of pension, must be applied with respect to the vires of the 2005 Act also. Following the law declared by the Division Bench in **Y. Sidda Reddy**¹, the 2005 Act, except in so far as it dealt with the aspect of pension, is also declared to be unconstitutional. The validity of the 2005 Act, in so far as it dealt with the aspect of pension, is upheld.

All the writ petitions are, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

23rd August, 2017
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Date: 23.08.2017

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