

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

Writ Appeal No.863 of 2017

DATED:23-08-2017

Between:

A.P. Social Welfare Residential Educational
Institutions Society
State of Andhra Pradesh
Represented by its Secretary
H.No.12-467-9, Tadepalli, Guntur District ... Petitioner

And

G. Mahita Kumari
and another ... Respondents

COUNSEL FOR THE PETITIONER: Mr. P.V. Ramana

COUNSEL FOR RESPONDENT No.1: Mr. Ghanshyamdas Mandhani,
for Mr. Jayanti S.C. Sekhar

COUNSEL FOR RESPONDENT No.2: G.P. for Social Welfare (AP)



THE COURT MADE THE FOLLOWING:

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

Feeling aggrieved by order dt.02.3.2017 in W.P. No.27846 of 2017 whereby the learned single Judge has allowed the writ petition filed by respondent No.1, assailing G.O. Ms. No.26 Social Welfare (RS.1) Department, dt.11.04.2011 issued by respondent No.2, and proceedings in Rc.No.G1/14850/2006-1, dated 19.5.2011 issued by the appellant, cancelling the regularization of the services of respondent No.1, this writ appeal is filed.

2. Respondent No.1 was working as a temporary Trained Graduate Teacher in the institution run by the appellant society. In pursuance of G.O. Ms. No.212, Finance & Planning (FW PO III) Department dt.22.4.1994, the services of respondent No.1 were regularized as Trained Graduate Teacher with effect from 27.11.1995. In the context of examining the claim of a third party, who sought regularization on top of respondent No.1, respondent No.2 purported to have examined the qualifications of respondent No.1 and on finding that she did not possess First or Second Class Degree and instead she possessed only Third Class Degree, it has issued a show cause notice on 17.11.2003 as to why the order regularizing her services as Trained Graduate Teacher shall not be cancelled. Respondent No.1 has submitted her explanation wherein she has *inter alia* stated that the appellant society itself has issued the proceedings relaxing the requirement of holding First or Second Class Degree qualification and that therefore her regularization does not suffer from any irregularity. Respondent No.1, however, has questioned the show cause notice by filing W.P. No.26210 of 2003. The said writ petition was disposed of by order dt.15.06.2005 with the direction to respondent No.2 to consider the explanation of respondent No.1 and pass appropriate

order. On 31.07.2008 respondent No.1 retired from service. Nearly three years thereafter, i.e., on 11.04.2011 respondent No.2 has issued the impugned G.O. cancelling the regularization of the services of respondent No.1. Assailing the said G.O., respondent No.1 filed W.P. No.27846 of 2012 which was allowed by the learned single Judge.

3. As could be seen from the order of respondent No.2 impugned in the writ petition, though it has referred to the explanation of respondent No.1 along with the explanations of similarly situated Teachers, the contents of the explanation have not been discussed. By a cryptic observation that the explanations submitted by the individuals are not convincing, respondent No.2 has cancelled the regularization order. As rightly observed by the learned single Judge, an order resulting in adverse civil consequences needs to be supported by proper reasons. Therefore, absence of reasons vitiates G.O. Ms. No.26, dt.11.4.2011 impugned in the writ petition. In addition to the same, the whole action of respondent No.2 is laced with uncondonable laches. Though the show cause notice was issued in November, 2003 and a writ petition questioning the same was disposed of on 15.06.2005, respondent No.2 kept quiet till 2011 and much after the retirement of respondent No.1, it has passed the order cancelling the regularization. Moreover, respondent No.2 has not taken into consideration the plea of respondent No.1 that the appellant society itself has relaxed the requirement of holding First or Second Class Degree. Though the learned counsel for the appellant has argued that the latter has no power to relax, respondent No.2 has not referred to this aspect and rendered a finding that the appellant has no such power of relaxation. In the aforesaid facts and circumstances of the case, the learned single

Judge was justified in allowing the writ petition and therefore we do not find any merit in this writ appeal.

4. The writ appeal is accordingly dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No.1691 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

23-8-2017

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