

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.14107 OF 2016

ORDER:

The Central Government launched a scheme called “Rashtriya Madhyamika Shiksha Abhiyan” (RMSA) to universalise access to and improvement of quality of education at secondary stage and the scheme was implemented from the financial year 2008-2009. The State Government was directed to constitute a State Level Mission on RMSA headed by Chief Minister, Executive Committee headed by Secretary in-charge of Secondary Education and Technical Support Group. The project will be implemented by a State Mission Director as Nodal Officer.

Pursuant to the said scheme, the erstwhile Government of Andhra Pradesh registered a society called “Andhra Pradesh Secondary Education Society” and opened a bank account relating to RMSA. The schools opened under the said scheme are called as “Model Schools” and they will have infrastructure and facilities of the same standard as in a Kendriya Vidyalaya and with stipulations on pupil-teacher ratio, ICT usage, holistic educational environment, appropriate curriculum and emphasis on output and outcome. The teacher-pupil ratio should not exceed 1:25. The erstwhile Government of Andhra Pradesh issued G.O.Ms.No.254, Finance (SMPC-I) Department, dated 03.12.2011, creating and sanctioning 12351 posts at State and district levels and 355 model schools under the scheme. The posts sanctioned at State level were directed to be filled up on deputation, whereas at the district level, the District Education Officer shall act as the District Monitoring Officer and the remaining 115 posts sanctioned at district level shall be filled up on deputation. All the 7,100 posts created at the school level shall be filled up by direct recruitment. Out of 7,100 posts, 355 posts, 4,260 posts and 2,485 posts are posts of Principal, PGT and TGT respectively.

Adhoc rules for direct recruitment for the posts of Principals, PGTs and TGTs in Model Schools-2012 were framed. After framing the rules, a notification for recruitment of Principals, PGTs and TGTs for Model Schools was issued in notification No.1/RMSA/Model Schools/2012 dated 06.02.2012. The notification was issued in respect of 355 schools, for 355 posts of Principals, 4,615 posts of PGTs and 2,130 posts of TGTs in various subjects for all the six zones. In the notification, it was stated that the post of Principal is a State wide post, whereas the posts of PGT and TGT are zonal posts. The recruitment was on the basis of a written test consisting of multiple choice questions for 100 marks. However, in respect of TGTs, out of 100 marks, 80% shall be for written test and the remaining 20% for APTET (paper-II). The notification further states that upto 1/3rd of posts may be filled up by deputation from persons working in Kendriya Vidyalaya Sangathan/Navodaya Vidyalaya Samithi/Central Schools under the control of Government of India. The vacancies are stated to be indicative, but the actual appointments will be restricted to the number required in relation to the opening of Model Schools/Classes/Sections. The details of the 355 Model Schools were also given. However, after issuing the notification as aforesaid, G.O.Ms.No.25, Education (SE-Pog.I) Department dated 04.04.2013 was issued providing guidelines for selection to the said posts. Under the said GO, a Selection Committee was to be constituted and it was stated that the number of candidates selected shall not be more than the number of vacancies notified. It was made clear that there will be no waiting list and posts, if any, unfilled for any reason whatsoever shall be carried forward for future recruitment. Detailed guidelines for verification of certificates, preparation of selection lists, procedure for implementing the reservations and Presidential Order, 1975 and issuance of appointment orders were issued. The last date for submission of applications was mentioned as 22.03.2012. The main issue

related to the procedure for verification of certificates and issuance of appointment orders contained in paras 11 and 14 respectively and they are as follows:

“11. Verification of Certificates:

- a) The Additional Director, Model Schools shall prepare with the approval of the Selection Committee a provisional list to the extent of vacancies notified, for each category of post notified, on the basis of the merit list and publish the same on the notice boards of the offices of the District Collector and District Educational Officer and also on the designated website, along with the date, time and venue fixed for verification of certificates. The Additional Director, Model Schools shall also issue a press note in the newspapers for wide publicity in this regard.
- b) The Committees as constituted in the Annexure-I and Annexure-II to these guidelines shall conduct the verification of original certificates of the candidates for the posts of Principal and the posts of Post Graduate Teacher (PGT) and Trained Graduate Teacher (TGT), respectively, as per the schedule and at the venues specified by the Selection Committee.
- c) As the processing of applications is made online so far, the process of verification of certificates of candidates included in provisional list may, in certain cases, also result in,
 - i. Failure of the candidate to attend for verification of certificates.
 - ii. Failure of the candidate to produce the original certificate/s relevant to his/her eligibility and selection.
 - iii. Inclusion of a candidate in the provisional list of more than one category.
- d) As regards c(i) above, the Additional Director, Model Schools shall send a personal intimation to the address furnished by the candidate, to attend along with all relevant original certificates on the date fixed for the said purpose, as a final chance.
- e) In case the candidate fails to attend even on the date so fixed, he/she shall forfeit his/her right to be considered for selection.
- f) In the event of c (ii) & c (iii) and (d) above, the provisional list shall be redrawn by the Selection Committee drawing next candidate/s from the merit list to the extent necessary, however, subject to the condition that the number of candidates included shall not be more than the number of vacancies notified for that particular category. In so far as the candidate covered by c (iii) above, this exercise shall be done only after obtaining the option of such candidate at the time of verification of certificates itself.
- g) The further verification of certificates, if any required as under (f) above shall be done, after due intimation to the candidates concerned, on the date fixed for the said purpose.

- h) After due completion of the above exercise the Selection Committee shall prepare the final selection list of the candidates for all categories. Once the final selection list is prepared, there shall be no waiting list and posts if any unfilled for any reason whatsoever shall be carried forward for future recruitment.

14. Issue of Appointment Orders:

- a) The Additional Director, Model Schools shall issue appointment orders as per the Ad-hoc Service Rules and posting orders as per the choice exercised by the selected candidates in the counselling.
- b) Actual appointments shall be restricted to the number required in relation to the opening of Model Schools/Classes/Sections."

The notification clearly specifies that the candidate should necessarily produce certificates of having studied in English medium at two levels in case of all posts except PGT (English) and at three levels in case of TGT (English) i.e., at school/junior college/degree college/Post Graduation. It was clarified that the candidates belonging to PGT (Telugu), TGT (English) and TGT (Hindi), need not submit "medium of certificate of services". Some candidates approached this Court seeking a direction to the respondents to consider their cases to receive applications, though they did not have three levels of English medium education. This Court, by order dated 21.03.2012 in WPMP.No.9043 of 2012 in W.P.No.7150 of 2012 directed the respondents to receive the applications and accordingly the last date was extended up to 27.03.2012. The written test was conducted on 10.05.2012 for TGTs, 11.05.2012 for PGTs and 13.05.2012 for Principals. The results were published in the website on 07.10.2012. However, challenging the above interim orders, the respondents preferred an appeal in W.A.No.366 of 2012 and a Division Bench of this Court set aside the interim order of the learned Single Judge and ultimately W.P.No.7150 of 2012 was dismissed on 09.05.2012. Against the final order dated 09.05.2012, the petitioners preferred Writ Appeals i.e., W.A.Nos.610, 611 and 612 of 2012 before a Division Bench and the same

were also dismissed on 04.01.2013. After dismissal of the above Writ Appeals, some candidates approached the Supreme Court vide SLP Nos.14955 and 19220 of 2013 and the Supreme Court passed an interim order on 04.01.2013 and it reads as follows:

“It will be open to the State Government to prepare a common list of the candidates who have studied either through Telugu Medium or English Medium depending upon the marks they secured, and proceed to effect appointments. The appointment will be subject to the final outcome of the appeal. This order will be applicable for the posts of Principals and the Post Graduate Teachers.”

Simultaneously, after dismissal of the above Writ Appeals, the Government took up the recruitment process by preparing a merit list and tentative selection list during May/June-2013 for PGTs and TGTs in all zones in 1:1 ratio as per clause 11(a) in G.O.Ms.No.25 dated 04.04.2013. Communication was sent to all the candidates through SMS and was placed in official website for recruitment and given directions to attend for the certificate verification in zone wise at the offices of the Regional Joint Directors. In respect of absentees, second time communication was given and in case of absentee candidates during second time, their names were removed from the list. The candidates were given options for web counselling during May/June-2013 and accordingly allotments were made subject to final verification of the certificates. Wherever candidates have failed to produce the certificates in final verification, they were not given appointments at all and the same were treated as non-joining and the posts remained unfilled. In pursuance of the interim orders of the Supreme Court, in respect of PGTs, a common merit list with English and Telugu medium candidates was prepared.

As per the scheme, the Model Schools started functioning from the academic year 2012-2013. But due to non-availability and delay in construction of school buildings, functioning of the schools were deferred to

2013-2014 by limiting the classes to VI to VIII and Intermediate first year course.

Thereafter the State was bifurcated on 02.06.2014. By the time of bifurcation of the State, 1,811 candidates consisting of 78 Principals, 1,278 PGTs and 456 TGTs were given appointments. After bifurcation, out of 355 schools, 163 schools were allocated to the State of Andhra Pradesh and 192 to the State of Telangana. Out of 4,651 PGT posts, 2,119 posts and out of 2,130 TGT posts, 978 posts were allocated to the State of Andhra Pradesh. Thereafter, second phase counselling was held in the month of October/November-2014 and a total of 1,032 posts were filled up consisting of 491 PGTs and 498 TGTs. Thus, 2800 posts were filled as against notified 3,260 posts in Andhra Pradesh.

In respect of State of Andhra Pradesh, after completion of second phase counselling in October, 2014, the Society, by its letter dated 05.12.2014, requested the Government for closure of recruitment process, seeking permission to carry forward balance vacancies to the next recruitment. The Government accordingly permitted the Society to close the recruitment process, by its memo dated 28.04.2015. Now the Central Government de-linked the scheme of Model Schools with effect from 2015-2016 and the respective State Governments have to extend 100% support as grant-in-aid to the A.P. Secondary Education Society towards recurring and non-recurring expenditure and the budget allotments are yet to be made.

The petitioner, who belongs to BC (D) Community and has a partial disability of 45%, applied for the post of Principal as well as Post Graduate Teacher (PGT) pursuant to a notification issued on 06.02.2012 by the Society. The qualifications prescribed for the post of Principal are as follows:

- i. Two year Integrated Post Graduate Course from Regional Institute of Education of NCERT (or) Masters Degree from UGC Recognized University with at least 50% marks in aggregate; and
- ii. B.Ed., or equivalent teaching degree; and
- iii. Must have studied in English Medium at any three levels of School/Junior College/Degree College/Post Graduation.

The petitioner's application was accepted for both posts and he was issued a hall ticket bearing No.61610002112 in respect of the post of Principal. He was qualified in the written examination and he was asked to submit the original documents on 03.05.2013 for verification. The documents were verified as per the check list and thereafter a call letter was issued for Interview and he was subjected to Interview on 09.05.2013. Though he was shortlisted for selection, when no appointment orders were issued, he filed W.P.No.40863 of 2014. This Court by order dated 31.12.2014 in W.P.M.P.No.51205 of 2014, granted interim direction to consider the representation of the petitioner dated 02.09.2014, whereunder he sought to receive the concerned certificates as per Rules and pass appropriate orders within a period of six weeks. Pursuant to the said direction, after considering his representation dated 02.09.2014, the second respondent, who is *ex officio* Project Director of Rashtria Madhyamika Shiksha Abhiyan, passed an order on 16.04.2015 rejecting his request for consideration for appointment on the ground that he failed to submit the required certificates at the time of Interview. In view of the said order, instead of pursuing the earlier writ petition, the petitioner filed the present writ petition challenging the said order dated 16.04.2015. After three adjournments, the writ petition was admitted on 20.06.2016, granting interim direction in W.P.M.P.No.17592 of 2016 to the respondents to consider the case of the petitioner for the post of Principal. This Court was satisfied from the documents filed along with the writ petition that he passed Pre-University Examination, B.A. in Economics, Politics and Industrial

Relations and M.A. (Economics) in English Medium. The petitioner was given liberty to produce the original certificates for the purpose of verification as xerox copies were already filed. It appears that W.V.M.P.No.4402 of 2016 was filed seeking vacation of the said interim order.

Alleging non-compliance of the said interim order dated 20.06.2016, the petitioner filed C.C.No.1840 of 2016. Since the contempt case was filed, this Court directed posting of the contempt case along with the writ petition, but in view of change of rosters, after obtaining necessary orders from the Hon'ble the Acting Chief Justice. Thus, the writ petition was posted along with the contempt case.

A counter affidavit is filed by the second respondent admitting the issuance of the Notification on 06.02.2012 and it is stated that in respect of academic qualifications, it was stipulated that one must have studied in English medium at any three levels of School/Junior College/Degree College/Post Graduation as one of the pre qualifications for consideration of the application. It is stated that at the time of applying for the post of Principal, the petitioner wilfully submitted wrong information by stating that he studied English Medium at three levels and on the said basis, his application was accepted and hall ticket was issued. The Interview was conducted on 03.06.2013. It is specifically stated that during the certificate verification, the petitioner submitted a check list of the certificates brought for verification and found that the petitioner has studied SSC in Telugu Medium and Intermediate in other Medium but Degree and Post Graduation in English Medium. In those circumstances only, the representation of the petitioner was earlier considered and rejected. It is the responsibility of the petitioner to produce all the relevant certificates to show that he studied English medium at three levels but he failed to produce relevant certificates to show that he studied English medium at three levels and he has not

sought any time from the concerned authorities to produce the same after some time. It is also stated that in the call letters, it was clearly mentioned that if the candidate fails to appear or produce all or any of the certificates on the date of certificate verification, his candidature for recruitment through the APMS Recruitment Test-2012 would be cancelled. After obtaining interim orders in the present writ petition, the petitioner submitted a representation on 23.06.2016 without enclosing any certificates to support his claim that he has studied English Medium at three levels. Accordingly, another order was passed rejecting his case in August, 2016. It is also stated that Notification dated 06.02.2012 was already closed in the month of July, 2013 and the left over vacancies were carried forward to future notification and thereafter, no claims were entertained.

A reply affidavit is filed by the petitioner stating that he not only applied to the post of Principal but also applied to the post of PG Teacher (Economics). For both the posts, one is required to study in English Medium at three levels and he has submitted the same set of certificates. He was selected and appointed as PG Teacher (Economics), whereas the same certificates were not considered for the post of Principal. Out of the total 355 posts of Principal notified, 214 posts were filled up and 10 posts were earmarked for Physically Handicapped candidates, but only one post was filled up by the person belonging to the said quota. The petitioner denied the allegation that he produced false information since he studied Intermediate, Graduation and Post Graduation in English Medium and he also denied the averment that he did not produce the originals at the time of verification.

Before filing the present writ petition, the petitioner sought for some information under Right to Information Act and the required information was furnished on 10.09.2015. It disclosed that 673 candidates were selected for Certificate Verification, out of which, 582 candidates appeared. The

appointment orders were issued for 214 candidates and a combined merit list was not prepared as per the Guidelines of the Supreme Court in respect of Telugu Medium and English Medium candidates, but the orders were implemented only in respect of PG Teachers.

In the light of the above contentions, the only point that arises for consideration is whether the petitioner had studied English Medium at three levels of School/Junior College/Degree College/Post Graduation and whether the denial of appointment of the petitioner to the post of Principal is valid or not.

The petitioner studied SSC in Telugu Medium, PUC (Intermediate) in Andhra University in English Medium; B.A., from Autonomous Maharajah's College, Vizianagaram in English Medium and M.A., (Economics) from Andhra University in English Medium, apart from completing the B.Ed., from Andhra University. The hall ticket issued to the petitioner showed that he studied SSC., in other Medium, whereas Intermediate, Degree and Post Graduation in English Medium. He was successful in written test. He was asked to submit the original certificates and accordingly, certificates were verified on 03.05.2013. He was asked to appear for Interview and accordingly, he appeared for Interview on 09.05.2013. Since he also applied for PG Teacher (Economics), original certificates were once again verified on 14.06.2013 and he was issued an Order of Appointment as PG Teacher (Economics). The final selection list for the post of Principal was published on 19.07.2013. Thereafter, the petitioner submitted representation by producing all original certificates on 20.07.2013 followed by another representation on 02.09.2014. The said representation was directed to be considered by interim order dated 31.12.2014 in W.P.M.P.No.51205 of 2014 in W.P.No.40863 of 2014. The order was passed on 16.04.2015 stating that the petitioner did not submit the original certificates and when an interim order was passed in this writ petition on

20.06.2016 and another order was passed by the respondents on 23.08.2016 rejecting the case of the petitioner on a different ground.

It appears that the entire dispute arose because of non-availability of medium of instruction in the certificates of qualification issued by the concerned authorities. It is common knowledge that Pre-University Examination Certificate, Degree and Post Graduation Degree Certificates issued by the Andhra University, normally do not contain the medium of instruction. In case of need, the required certificate has to be obtained from the concerned authorities conducting the examinations and shall be produced.

In view of the above, this Court called for the record of Selection Committee in order to see whether any discrimination was meted out to the petitioner. It appears that the Selection Committee for the posts of Principals, Post Graduate Teachers (PGTs) and Trained Graduate Teachers (TGTs) for Model Schools met on 03.07.2013 to consider the grievances in the selection. It appears that 76 applications raising grievances were received with regard to the posts of Principal and it appears that the candidature of three candidates was considered.

Under G.O.Ms.No.25, Education Department, dated 04.04.2013, a Certificates Verification Committee was constituted for the post of Principal by Annexure-I to the said Government Order. The said Committee consists of six Members and one Chairman. The Additional Director of the Model Schools was designated as Chairman, whereas Joint Director (Administration), Model Schools was designated as Member Convener. The provisional selection list prepared by the Selection Committee clearly shows that the said selection was subject to production of proof of three levels of study in English medium at School/Junior College/Degree College/Post Graduation and other certificates as per the condition issued in the Notification. It is also stated that the appointment orders would be

issued only if the above two conditions are fulfilled. Thus, the petitioner was provisionally selected and his number appears in the provisional selection list published on 24.05.2013. Thereafter, the second respondent addressed a letter to the Principal Secretary to Government stating that 582 candidates attended the Interviews for the posts of Principal from 08.05.2013 to 11.05.2013, 13.05.2013 and 18.05.2013 and it was found that three candidates did not study in English medium at three levels, one candidate did not have requisite Post Graduation qualification and in case of one candidate, the medium of study at Degree level was found to have been tampered and thus, five candidates were excluded from the list leaving the balance candidates of 577. In respect of doubtful cases of study in English medium at three levels, it was decided to give time to produce necessary certificates. It is also stated that the Committee decided to draw the merit list only from the eligible candidates of 386 candidates duly excluding 191 candidates, who were rejected by the Interview Board. The petitioner's name appears in the selection list and was called for counselling along with proof of three levels of study and certificates. At that stage, i.e., at the stage of counselling, his name was dropped. The Selection Committee again met on 18.06.2013 and considered the cases of four candidates, who produced three levels of English Medium certificates and community certificates. A three-member Committee was constituted to verify the genuineness of the certificates. The file discloses an e-mail communication to the Centre for Good Governance indicating hall ticket No.61610002660 to be freezed and five candidates to be unfreezed. The meaning of 'freezing' and 'unfreezing' is not known and no reasons are available in record why such action was taken. The certificates of unfreezed candidates were referred to the District Educational Officer for verification by proceedings dated 24.06.2013. Similarly, the case of one R.Ramakrishna Rao was referred for verification by same proceedings

dated 24.06.2013. Such a consideration was not given to the petitioner even it is assumed that there was a doubt with regard to the medium of Instruction of the petitioner.

The petitioner obtained the required certificates of having studied in English Medium of M.A., (Economics) on 18.05.2013, B.A., on 19.06.2013 and Pre University on 18.07.2013. The petitioner submitted all these certificates to the Director on 20.07.2013 and now it is stated that the process of recruitment was closed on 19.07.2013 as per the minutes of the Selection Committee on 03.07.2013. The petitioner was never given any opportunity to submit the proof of having studied in English medium as was given to other nine candidates. This is a clear case of discrimination. The original record, which is produced before this Court, also does not disclose consideration of the case of the petitioner even after he was called for counselling. It appears from the record that his case was dropped at the stage of counselling, whereas the cases of nine other doubtful candidates were considered subject to verification, by the three-member Committee met on 20.06.2013. Out of nine candidates, three candidates were given appointment Orders in the Selection Committee meeting held on 03.07.2013. The Note File approving the position of the recruitment process and decision to intimate to the Government was taken only on 20.07.2013. Even in the Meeting dated 03.07.2013, the case of the petitioner was never considered.

In fact, there was a second phase of counselling in October, 2014 and the Society requested for closure of recruitment process only on 05.12.2014. The Government accordingly permitted the Society to close the recruitment process by its Memo dated 28.04.2015. These facts were not brought to the notice of this Court because only a partial file was produced before this Court and this Court took the said fact from another batch of

cases in W.P.No.6440 of 2015 and batch, dated 12.09.2016, whereunder the batch of cases relating to the Society was considered.

Normally during administrative decision making process, some mistakes may occur and the administrators are supposed to rectify those mistakes when their attention was drawn to them. This court, in the earlier round of litigation and in the present Writ Petition, by passing interim orders, directed the second respondent to consider the case of the petitioner but no genuine effort was made by the second respondent and this court spent many hours to find out the truth. It is still an enigma as to why the petitioner's case was dropped at the counseling stage after provisional selection as no proper record of proceedings were maintained by the selection committee.

In view of the non-consideration of the case of the petitioner in the selection committee meeting held on 03.07.2013, and not referring the case of the petitioner for verification as was done in respect of nine other doubtful candidates, whose cases were considered earlier, this Court is constrained to hold that the denial of appointment to the petitioner for the Post of Principal on the ground that he did not produce the proof of study is bad in law.

The writ petition is accordingly allowed with costs of Rs.10,000/- payable by the second respondent to the petitioner. Consequently, miscellaneous petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

18.08.2017
pln