

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 38698 of 2017

Order:

Heard learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

The petitioner was appointed as SGT (TM) by proceedings of the fourth respondent dated 01.12.2005. He worked in several places. Later on, he was promoted as School Assistant (Social Studies) on 26.06.2010. While so, a charge memo was issued to the petitioner on 01.02.2016 alleging that he submitted fake *bona fide* certificates of Classes I to III and III to V and, thus, violated the Conduct Rules. He submitted his explanation to the charge memo on 19.02.2016 denying the charge. The fourth respondent issued another charge memo on 05.07.2016 reiterating the earlier charge and also stating that though the petitioner was not a local candidate, he misled the District Level Selection Committee by producing a bogus *bona fide* certificate. The petitioner submitted his explanation on 25.07.2016. An Enquiry Officer was appointed and he issued a notice to the petitioner calling upon him to attend before him on 27.08.2016. Accordingly, the petitioner appeared and submitted the documents. The Enquiry Officer submitted his report on 07.10.2016 and on the basis of such enquiry report the fourth respondent issued a show cause notice on 13.12.2016 calling upon the petitioner as to why major punishment shall not be imposed on him. The petitioner submitted his explanation on 29.12.2016 requesting to drop further proceedings in the matter and he also submitted representations on 27.01.2017 and 31.01.2017 to the Director of School Education to conduct *de novo* enquiry. Ultimately, an order was passed on 24.04.2017 removing the petitioner from service. The petitioner appears to have filed an appeal to

the Commissioner and Director of School Education who forwarded the same to the Regional Joint Director of School Education, Hyderabad. But, the papers filed along with the Writ Petition show that the appeal was addressed to the Appellate Authority under CCA Rules-cum-Minister-in-charge, Department of School Education, Hyderabad, on 26.05.2017. However, an appellate order is available in the record passed by the third respondent on 29.07.2017 which discloses that the appeal filed by the petitioner on 05.05.2017 to the Commissioner and Director of School Education was considered by him and upheld the orders passed by the fourth respondent on 24.04.2017. But, the third respondent was obviously referring to the explanation submitted by the petitioner to the Director of School Education seeking *de novo* enquiry and on forwarding the same to him, he took it as an appeal and disposed of the same confirming the order of the fourth respondent dated 24.04.2017. The attempt of the petitioner to file an appeal before the Hon'ble Minister-in-charge of the subject and the action of the second respondent in forwarding the representation of the petitioner to the third respondent and the third respondent taking it as an appeal and confirming the order of the fourth respondent are wholly misguided. This Court feels that no proper appeal was filed by the petitioner to the competent authority and the respondents 2 and 3 were misled in construing the representation as an appeal which ultimately resulted in passing an order by the third respondent on 29.07.2017. Since the right of appeal exists for the petitioner, this Court feels that the entire process can be set right by giving opportunity to the petitioner to prefer an appeal to the competent authority.

Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to prefer an appeal to the competent authority within a period

of two weeks from the date of receipt of a copy of this order and, on filing such appeal, the competent authority shall dispose of the same in accordance with law, as expeditiously as possible, but not later than three months from the date of filing appeal. In view of the direction issued as above, the order passed by the third respondent on 29.07.2017 is set aside. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 16.11.2017
Nsr

A. RAMALINGESWARA RAO, J

