

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.35764 OF 2017

ORDER:

Heard Mr.A.Sudarshan Reddy, learned senior counsel for petitioners, the Government Pleader for Collegiate Education and Mr.C.V.R.Rudra Prasad for 4th respondent.

The petitioner prays for Mandamus declaring Memo No.16004/CEA2/2011 dated 17.10.2017 of 1st respondent as illegal, arbitrary, suffers from *mala fides*, violative of principles natural justice and Articles 14 and 19(1)(g) of the Constitution of India.

The issue arises under Section 24 of the A.P. Education Act, 1982 read with Rule 7 of the A.P. Grant-in-Aid Code. The substantive issue in the impugned proceedings concern approving the change of correspondentship of Sathavahana College, Vijayawada in favour of N.Rama Satyanarayana as new Correspondent. The 4th respondent claims to be the Correspondent of Sathavahana College, Vijayawada.

The circumstances relevant for disposing of the writ petition are stated thus:

The 2nd respondent through proceedings Rc.No.18/Admn.I-1/2017 dated 30.03.2017, on the application said to have been filed by Secretary of 1st petitioner, passed the following orders:

“In pursuance of the orders issued in the reference 1st read above and in the circumstances reported by the Regional Joint Director of Collegiate Education, Rajahmundry in the reference 2nd read above, the Special Commissioner of Collegiate Education, A.P., Vijayawada is

hereby approved the change of correspondent ship in favour of Sri N.Rama Satyanarayana as new Correspondent of Sathavahana College, Vijayawada, Krishna District in terms of Rule 7 of the A.P. Grant-in-Aid Code read with Section 24 of the A.P. Education Act, 1982.

The Present/Secretary, Sathavahana College, Vijayawada is requested to take further necessary action accordingly.

The receipt of these proceedings should be acknowledged by return of post.”

This Court, while disposing of W.P.No.12089 of 2017, allowed 4th respondent to challenge by filing appeal against the proceedings dated 30.03.2017 of 2nd respondent. The 4th respondent filed appeal before the 1st respondent and the same was taken on file. The 1st respondent through Memo dated 17.10.2017 allowed the appeal and set aside the proceedings dated 30.03.2017. Hence, the writ petition.

On 27.10.2017, this Court granted interim suspension of Memo dated 17.10.2017 for a period of one week and later on extended the suspension from time to time. The 4th respondent filed counter affidavit along with a few annexures in support of his case.

The learned counsel for petitioners and 4th respondent have made submissions on the procedure followed by 1st respondent either in entertaining the appeal or while disposing of the appeal through Memo dated 17.10.2017. Elaborating the contention, Mr.Sudarshan Reddy contends that the petitioners received notice dated 18.09.2017 and 13.09.2017 from the 1st respondent in the appeal filed by 4th respondent. On 25.09.2017, the petitioners filed

objections/explanation to the appeal filed by 4th respondent. The objections refer to *locus standi* of petitioners, the orders passed by this Court in earlier rounds of litigation and the procedure followed while effecting change of correspondentship of Sathavahana College. The petitioners challenge the findings recorded by respondent Nos.4 and 5 firstly by contending that the 1st respondent committed procedural illegality by not recording the objections raised by petitioners, much less any finding is recorded thereon. Further, by referring to Spl.CCE Lr.Rc.No.18/Admn.I.1/2017 dated 15.05.2017, the appeal filed by 4th respondent is accepted and decided. The appeal was filed pursuant to liberty granted by this Court and relying on report dated 15.05.2017 is unsustainable. The petitioners also raise objection on the jurisdiction of 1st respondent to record findings on the affairs of 1st petitioner Society.

Per contra, Mr.Rudra Prasad appearing for 4th respondent contends that the proceedings dated 30.03.2017 is violative of principles of natural justice; the 4th respondent was functioning as correspondent of Sathavahana College and without even putting the 4th respondent on notice, no order could have been passed approving change of correspondentship. Therefore, according to him, the legality of change of correspondentship is dependant on the resolution said to have been passed in the meeting conducted on 19.02.2017. The 1st respondent examined these details and has recorded the findings and no exception could be taken in the judicial review of this Court. On non-consideration of objections

raised by petitioners which go to the merits of issue, the Government Pleader for Collegiate Education after going through the objections dated 25.09.2017 and the order of 1st respondent submits that the Memo dated 17.10.2017 does not reflect consideration of all the objections raised by petitioners. The counsel have raised several grounds/objections on the jurisdiction of competent Civil Court to go into this aspect of the matter etc., but have substantially focused their submission on the inadequacy referred to above in the order of 1st respondent.

The ground of petitioners viz., non-consideration of objections, particularly keeping in view the orders passed by this Court on earlier rounds of litigation and also the fact that the memo impugned in the writ petition is substantially passed basing on Special Commissioner of Collegiate Education's letter dated 15.05.2017, this Court is of the view that the impugned memo suffers from patent illegality and hence ends of justice are met, particularly having regard to the number of cases and proceedings pending between the parties before various Courts, Memo No.16004/CEA2/2011 dated 17.10.2017 is set aside and the matter is remitted to 1st respondent for consideration and disposal in accordance with law. This Court has not examined the merits of issue between parties, for the view this Court takes while disposing of this writ petition. The 1st respondent considers passing orders as expeditiously as possible, preferably within eight weeks from the date of receipt of a copy of this order and also affords opportunity of hearing to petitioners and 4th respondent.

The writ petition is ordered as indicated above. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, stand closed.

S.V.BHATT, J

22nd November 2017

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