

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

Writ Petition No.16780 of 2016
and
Contempt Case No.2115 of 2016

W.P. No.16780 of 2016:

Between

Dolayi Meena Madhuri

.... Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Social Welfare & I.T.W.F. Department,
Secretariat, Hyderabad and others.

... Respondents

JUDGMENT PRONOUNCED ON

: 11.04.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : YES
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : NO
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : NO

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.16780 of 2016
and
Contempt Case No.2115 of 2016

Common Order:

The Writ Petition and the Contempt Case are being disposed of by this common order, as the Contempt Case arises out of an order passed on 14.06.2016 in the Writ Petition.

The Writ Petition was filed challenging the action of the respondents in not appointing the petitioner as Secondary Grade Teacher pending finalization of DLC report with regard to community of the petitioner and the consequential letter dated 06.04.2016 by the Revenue Divisional Officer, Parvathipuram to the District Educational Officer, Vizianagaram.

The petitioner states that she is a resident of Elwinpeta village, G.L. Puram Mandal, Vizianagaram district which is a scheduled area. She belongs to "Paiko" Scheduled Tribe and she completed Intermediate and also two years Diploma Course in Education. The Government conducted DSC in the year 2014 and the fourth respondent communicated the provisional selection list for Secondary Grade Teacher – Telugu in respect of the agency area and the petitioner was declared to have been selected. Her name was shown at Serial No.23. She was declared as local Scheduled Tribe (Woman), having secured 85.6 marks with rank 1885. While so, the fourth respondent sought to enquire into the social status of two candidates including the petitioner herein. The respondents 5 and 6 enquired into the social status and submitted their reports on 06.04.2016. It is the case of the petitioner that the said enquiry was conducted behind her back without recording the statements of any of her relatives. On the

basis of the same, the matter was referred to the District Level Scrutiny Committee to decide the social status of the petitioner. In view of the said report, when the fourth respondent was not considering the candidature of the petitioner for appointment as Secondary Grade Teacher, she filed the present Writ Petition. The case of the petitioner is that her non-appointment as Secondary Grade Teacher, pending finalization of enquiry before the District Level Scrutiny Committee, is bad in law.

This Court, by order dated 14.06.2016, while admitting the Writ Petition, directed the fourth respondent to issue the order of appointment since her name figured in the provisionally selected list of candidates. However, the fourth respondent was directed to verify the social status and antecedents of the petitioner and take necessary action, if she conforms to the rules of recruitment in accordance with law.

Alleging non-implementation of the said order, Contempt Case No.2115 of 2016 was filed.

Thereafter, the fourth respondent filed a counter affidavit stating that the Government issued notification for filling up of 10,313 vacant teacher posts in Andhra Pradesh vide proceedings dated 01.12.2014 under different managements and in different categories of posts. Accordingly, 339 vacant teacher posts were notified for filling up under different managements in Vizianagaram district. Out of the said posts, 33 SGT posts were notified for the Government/MPP Schools situated in scheduled areas in terms of G.O.Ms.No.3, Social Welfare Department, dated 10.01.2000. The petitioner applied to the post of SGT under scheduled area category through on line and, accordingly, she was permitted to attend the written test of TET and TRT (Teacher Eligibility

Test and Teacher Recruitment Test) held on 09.05.2015. The provisional selection list was prepared by the District Level Committee and compared with the computer generated provisional selection list provided by the Centre for Good Governance. The petitioner was issued call letter to attend for verification of her original certificates on 11.02.2016 at Collectorate Auditorium, Vizianagaram and she attended for verification process. As per the guidelines issued by the Commissioner of School Education, Andhra Pradesh, Hyderabad dated 29.01.2016 and also as per the orders of the District Collector and Chairman, TET-cum-TRT-2014, Vizianagaram district, all the caste certificates and scheduled area certificates of the provisionally selected candidates were referred to the Tahsildars concerned for verifying their genuineness. As per the report of the Tahsildar, Gummalaxmipuram dated 18.02.2016 and also the orders of the District Collector, the certificates of the petitioner and another were referred to the Revenue Divisional Officer, Parvathipuram, vide letter dated 22.03.2016, for conducting a detailed enquiry. The Revenue Divisional Officer, Parvathipuram, in his report dated 06.04.2016, reported that the petitioner is not eligible for getting the post of SGT under scheduled area category, since the petitioner did not hail from scheduled area as her family migrated from Orissa State in 1952 to Elwinpeta Village of G.L. Puram Mandal which is situated in scheduled area and later on shifted to Komarada village of Komarada Mandal which is situated in plain area nearly 35 years back. It is also stated that the petitioner is not a genuine Scheduled Tribe candidate and her caste status has to be placed before the District Level Scrutiny Committee for decision. The said report was placed before the District Selection Committee for cancelling the provisional selection of the petitioner. The fourth respondent being a

Member Secretary to the District Selection Committee, Vizianagaram district, cancelled the provisional selection of the petitioner based on the report of the Revenue Divisional Officer, Parvathipuram dated 06.04.2016.

Though no plea was taken in the counter affidavit, the learned Government Pleader took a plea while arguing the case that the present Writ Petition is not maintainable as the matter comes within the jurisdiction of the Andhra Pradesh Administrative Tribunal.

Learned counsel for the petitioner relied on *Satwati Deswal v. State of Haryana*¹ and that of *K. Suraj Singh v. Collector and District Magistrate, Kadapa*² and submitted that the present Writ Petition is maintainable. He further submitted that since the principles of natural justice are violated, the present Writ Petition is maintainable.

Admittedly, the petitioner was provisionally selected as Secondary Grade Teacher under scheduled area category. The enquiry revealed that she is not the local Scheduled Tribe candidate and her social status also required to be examined. The post of Secondary Grade Teacher, admittedly, comes under the purview of the Andhra Pradesh Administrative Tribunal. Though the petitioner was not appointed to the post, the claim for appointment also comes under recruitment and matter relating to recruitment. Such cases should be filed before the service Tribunal constituted for such purpose. The non-maintainability of the Writ Petition was considered by a Full Bench of this Court in *Smt. A. Sivamma v. The District Women and Child Welfare Officer, Kurnool*³, and following the said decision I rendered a decision in *Koyyada Satish Kumar v. State of Telangana*⁴, holding that the

¹ (2010) 1 SCC 126

² 2011 (6) ALD 193

³ 1987 (1) ALT 530(FB)

⁴ 2016(6) ALT 221

matters concerning recruitment prior to appointment also should go before the concerned service Tribunal. Hence, the present case also comes within the purview of the Andhra Pradesh Administrative Tribunal.

In view of the same, the Writ Petition is dismissed holding that this Court has no jurisdiction to entertain the same. However, it is open to the petitioner to take appropriate proceedings in accordance with law before the competent Tribunal/Court. In view of dismissal of the Writ Petition, nothing survives in the Contempt Case and the Contempt Case is also, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in the Writ Petition as well as in the Contempt Case shall stand closed.

Date: 11th April, 2017
Nsr

A. RAMALINGESWARA RAO, J

