

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.41645 of 2016

ORDER

Heard learned counsel appearing for the petitioners, learned Government Pleader for Labour & Employment appearing for respondents 1 and 2, Sri K.G.Krishna Murthy, learned Senior Counsel appearing for respondents 3 and 4 and Sri B.Narayana Reddy, learned Assistant Solicitor General appearing for the 5th respondent.

The first petitioner claims to be the Vice President and petitioners 2 and 3 claim to be the Executive Committee Members of the 3rd respondent-Society, whereas petitioners 4 to 6 are trainees of the 4th respondent-Institute. The 1st respondent granted permission for establishment of an educational institution for imparting training *vide* G.O.Ms.No.88, LET & F (EMP) Dept, dated 26.09.2009 and the 5th respondent granted affiliation to the 4th respondent in the year 2010 for establishment of the educational institution viz., Balaji Private Industrial Training Institute at Bhupalapalli, Warangal District. The 4th respondent sought permission

for shifting the institution from Bhupalapalli to Manuguru. Pursuant to the same, after calling for report from the Director of Employment & Training, the 1st respondent granted permission *vide* proceedings dated 23.06.2016. The said permission is challenged by the petitioners on the following grounds:

(1) The 4th respondent, who claims to be the Secretary of the 3rd respondent-Society, had not issued due notice to the Executive Committee Members and meeting of the Executive Committee was also not called for and hence he cannot make a request for shifting the institution.

(2) The 1st respondent is not competent to issue G.O.Rt.No.456, dated 23.06.2016 for shifting the said institute from Bhupalapalli to Manuguru as it is violative of G.O.Ms.No.29, Education (Rules), dated 5.2.1987.

(3) As per the instructions issued by the 5th respondent on 01.11.2012, the affiliation granted to any Government and Private institutions will be valid for a period of five years only and after every five years, all the institutions (including those which were affiliated for less than 5 years) shall be inspected and granted affiliation

afresh. Hence, without granting affiliation, respondents 3 and 4 cannot run the institution at a new place.

Separate counter-affidavits are filed by respondents 2 and 3.

It is stated in the counter-affidavit filed by the 2nd respondent that the trainees admitted in Balaji ITI at Bhupalapalli for the session 2015-2017 will complete the training at Bhupalapalli only and after completion of the training, the institute is permitted to be shifted from Bhupalapalli to Manuguru. It is further stated that in case of shifting the 4th respondent-Institute, the Government functionaries i.e., respondents 1, 2 and 5 can judge the norms for functioning the institute. The Department is not going to permit for immediate shifting till completion of the academic year to avoid disturbance to the academic year and training of the trainees. It is further stated that the management requested for shifting of the ITI on the ground of financial problems and due to shortfall in the admissions.

In the counter-affidavit filed by the 3rd respondent, it admitted the permission granted by the Government for

establishment of ITI at Bhupalapalli and the affiliation accorded to the educational institute. It is stated that the 1st petitioner submitted a representation on 5.4.2014 stating that due to some personal problems, he is unable to attend the institution and submitted his resignation and the same was accepted. Hence, the 1st petitioner started harassing the members of the society and in view of the same, the society is unable to run the institute and was facing financial problems. A general body meeting was held on 3.2.2016 wherein it was decided to remove the 1st petitioner from the post of Vice President with effect from 3.2.2016. The averments with regard to the disputes between the 1st petitioner and respondents 3 and 4 were denied.

In view of the above pleadings, it is submitted by the learned Senior Counsel appearing for respondents 3 and 4 that the rules made under G.O.Ms.No.29, dated 5.2.1987 are not applicable to the present facts of the case, as no specific rules are framed governing the Industrial Training Institutes except under G.O.Ms.No.123, dated 27.03.1985.

By placing reliance on the terms and conditions annexed to the said G.O.Ms.No.123, dated 27.3.1985 and

particularly condition No.23 thereof, learned counsel appearing for the petitioners submits that as per Section 20 read with the Rules framed under G.O.Ms.No.29, Education (Rules), dated 5.2.1987, the permission granted by the 1st respondent for shifting the institute from Bhulapalli to Manuguru, is not valid in law.

Regarding the first point raised by the learned counsel for the petitioners with regard to conducting of meeting, passing of resolution and non-issuance of notice to the petitioners, it is a matter of *inter se* dispute between the 1st petitioner and the Managing Committee of the 4th respondent and this Court cannot decide the said issue in the present writ petition. It is open to the petitioners to take appropriate proceedings where the books of the meeting can be called for and finding can be recorded with regard to the validity of such resolution. Accordingly, this Court is not inclined to entertain the submission with regard to the first point.

From a perusal of the Andhra Pradesh Educational Institutions (Establishment, Recognition, administration and Control of Institutions of Higher Education) Rules,

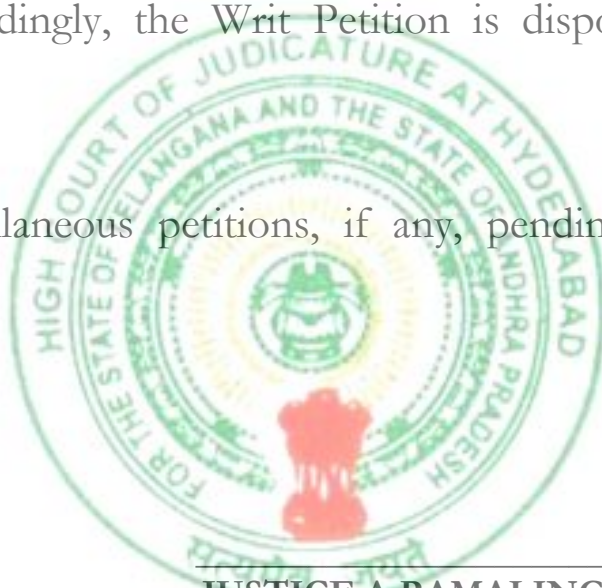
1987, it is clear that those Rules are not applicable to the ITI institutes. In the absence of any specific Rules framed, it is always open to the Government to pass orders in exercise of its powers. Hence, it cannot be held that the impugned order is violative of any statutory provisions and the Rules made thereunder. Hence, point No.2 is held against the petitioners.

So far as the 3rd point is concerned, it is true that the National Council for Vocational Training in its meeting held on 16.12.2011 took a decision to grant affiliation for a limited period of five years, so that regular inspections are carried out and quality is maintained. Accordingly, the Government of India, accepted the recommendations of the Council for implementation and issued instructions stating that the affiliation will not be granted for more than five years and that after every five years, the institutions shall be inspected and affiliated afresh. The same is accepted by respondents 1 and 2 in the counter-affidavit by stating that the activities of respondents 3 and 4 are subject to the regular mechanism of respondents 1, 2, and 5.

In view of the same, it is open to the petitioners to submit a representation to respondents 1, 2 and 5 with regard to the affiliation to be granted to respondents 3 and 4 at the new place. Respondents, 1, 2 and 5 shall consider the said representation as and when submitted by the petitioners and pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

17th April, 2017
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Note: Issue CC by one week.

