

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.1814 of 2014
&
W.V.M.P.Nos.2568 and 2685 of 2014 and 4107 of 2015
In/and
W.P.No.2519 of 2014
&
W.V.M.P.Nos.2342 and 2355 of 2014 and 2460 of 2014
In/and
W.P.No.3871 of 2014
&
W.V.M.P.No.2919 of 2014 in/and W.P.No.4218 of 2014
&
W.V.M.P.No.2567 of 2014 in/and W.P.No.4871 of 2014
And
W.V.M.P.No.759 of 2016 in/and W.P.No.3426 of 2016

COMMON ORDER:

Since common questions arise for consideration in these Writ Petitions, they are being disposed of by this common order.

W.P.No.3426 of 2016

2. Since the latest position in the State of Telangana is set out in the counter-affidavit in W.P.No.3426 of 2016, I will first deal with the said Writ Petition.

3. Petitioners herein belong to Karimnagar in the State of Telangana. Petitioner Nos.1 to 4 and 6 are also petitioners in W.P.No.2519 of 2014, 5th petitioner is party in W.P.No.3871 of 2014 and petitioner Nos.7 and 8 are parties in W.P.No.4871 of 2014.

4. They assail the proceedings dt.25-01-2016 issued by the Member Secretary, DWUSC & Superintending Engineer, Rural Water Supply and Sanitation Circle, Karimnagar discontinuing their services as Mandal Resource Coordinators from February, 2016 without

assigning any reason. They also claim that they were appointed by 3rd respondent pursuant to memo dt.14-10-2010 issued by the Member Secretary, DWUSC & Superintending Engineer, Rural Water Supply and Sanitation Circle, Karimnagar after a notification was issued on 14-12-2010; that they applied pursuant to the said notification and were selected and appointment orders were issued on 18-01-2011. They contend that though their initial appointment was for one year, it was extended from time to time; that when their services were sought to be dispensed with on the basis of G.O.Ms.No.1891 dt.23-11-2013, they filed W.P.No.2518 of 2014, 3871 of 2014 and 4871 of 2014 along with similarly situated persons contending that the qualification of graduation prescribed in the said G.O. cannot be made applicable to them as they were appointed prior to the said G.O. and they cannot be discontinued on the basis of the said G.O; that interim orders were granted therein and they were also implemented after the petitioners filed C.C.No.904 of 2014 and C.C.No.914 of 2014; and suddenly the 3rd respondent issued the impugned proceedings stating that their services should be discontinued from February, 2016. They contend that and that there were no valid reasons for discontinuing their services.

5. Petitioners filed W.P.M.P.No.4378 of 2016 to direct the respondent Nos.2 to 4 to continue them as Mandal Resource Coordinators at their respective Mandal Resource Centers in

Karimnagar District. On 05-02-2016 in W.P.M.P.No.4378 of 2016, interim direction was granted in their favour.

6. W.V.M.P.No.759 of 2016/counter-affidavit is filed by 3rd respondent. It is stated that Government of India launched the Swachh Bharat Mission (Grameen) and consequently, the State Government issued G.O.Ms.No.36 dt.30-03-2015 and the said Mission replaced the State Water and Sanitation Mission. It is contended that as per para-8 of the said G.O., the Mandal Parishad Development Officer was designated as Mandal Sanitation Officer; the Dy.Executive Engineer (RWS) has to coordinate the programme with all the MPDOs within a constituency in his jurisdiction; there would be a Mandal Coordinator and Data Entry Operator to assist the Mandal Sanitation Officer; the State Swachh Bharat Mission (Grameen), in consultation with Society for Elimination for Rural Poverty (SERP) and Commissioner of Panchayat Raj will identify reputed NGOs and send list to the District Collector who is the Chairman of the District Swachh Bharat Mission Committee for entering into an MoU to support the programme in the District; and the NGO will provide the Mandal Coordinator and Data Entry Operator to the Mandal Sanitation Officer whose remuneration and logistical support charges will be paid by the District Swachh Bharat Mission. Reference is also made to the State Government Grama Jyothi programme which makes sanitation a priority; and that change agents for each Mandal will be appointed to oversee the said

programme. It is contended that the designated functions of Mandal Resource Coordinators are covered by appointing Change Agents at Mandal level in the Grama Jyothi programme; that engaging Mandal Resource Coordinators is sector-specific; and it is therefore not feasible to engage petitioners' services. It is stated that in view of the above guidelines, the services of the petitioners were terminated from 01-02-2016 and there are no Mandal Resource Coordinators working in the Department of the 3rd respondent. It is stated that C.C.No.904 of 2014 was closed by this Court.

7. In view of the pleadings of the parties, a question arises whether petitioners in these Writ Petitions are entitled to any relief?

8. It is clear that G.O.Rt.No.1891 Panchayat Raj and Rural Development Department dt.23-11-2013 issued by the then Government of Andhra Pradesh prescribing Graduation as a qualification for appointment as Mandal Resource Coordinators, the post to which the petitioners were appointed, is no longer in force in the State of Telangana in view of the Swachh Bharat Mission (Grameen) programme introduced by the Government of India and the State of Telangana issued G.O.Ms.No.36 Panchayat Raj and Rural Development (RWS-III) Department dt.30-03-2015.

9. Para-8 of the said G.O.Ms.No.36 dt.30-03-2015 also contemplates the appointment of Mandal Coordinators to assist the Mandal Parishad Development Officer (who is re-designated as Mandal Sanitation Officer). The plan seems to be to identify an NGO

with which an MoU may be entered into and for the NGO to provide the Mandal Coordinator. However the remuneration and logistic support charges will be paid by the District Swachh Bharat Mission headed by the District Collector. In other words, the services of the Mandal Coordinators are outsourced through the NGO by the District Swachh Bharat Mission.

10. Also, it is stated in the Counter affidavit that under the Grama Jyothi programme, Change Agents would be appointed in regard to sanitation and drinking water programmes in a Gram Panchayat and that the designated functions of the Mandal Resource Coordinators are covered by these Change Agents.

11. In effect, the State of Telangana who had initially engaged the petitioners as Mandal Resource Coordinators has taken a stand that for the aforesaid reasons, the services of the petitioners in W.P.No.3426 of 2016 cannot be engaged. However, no such reasons are forthcoming in the impugned Memo No.A4/455/MRCS/2013 dt.25-01-2016 issued by the 3rd respondent.

12. It is settled law that an order passed by an authority has to be judged on the basis of its contents and cannot be supported by reasons contained in a counter-affidavit or oral submission (**Mohinder Singh Gill Vs. Chief Election Commissioner¹**). On this ground alone, the impugned Memo deserves to be set aside since it does not give any valid reason for terminating petitioners' services.

¹ (1978) 1 SCC 405

13. When there are no complaints about the discharge of functions by the petitioners and when they have discharged their duties as Mandal Resource Coordinators from 18-01-2011, the respondents cannot terminate their services arbitrarily without assigning any valid reason by merely changing their nomenclature as Change Agents or outsourcing their services through NGOs.

14. Accordingly, W.P.No.3426 of 2016 is allowed, and the Memo No.A4/455/MRCS/2013 dt.25-01-2016 issued by 3rd respondent is set aside, and the respondents therein are directed to continue the petitioners as Mandal Resource Coordinators. Consequently, W.V.M.P.No.759 of 2016 is dismissed. No costs.

W.P.No.1814 of 2014

15. Petitioners belong to Visakhapatnam District. Though there are 9 petitioners in this Writ Petition originally, on 19-03-2014 the Writ Petition was withdrawn by petitioner Nos.1 to 5, 7 and 8. It therefore survives as regards petitioner Nos.6 and 9 alone are concerned.

16. These two petitioners acquired qualification of M.Com and B.A. and hail from poor families.

17. In terms of the instructions issued by the Principal Secretary to Government, Rural Water Supply and Sanitation Department, Government of Andhra Pradesh to all Districts Collectors and Chairpersons, District Water Sanitation Committee (DWSC-

RWS&S) in the State through letter No.CCDU/RWS&S/Mandal Resource Centre/2010 dt.18-09-2010, the 6th petitioner in this Writ Petition was appointed as Mandal Resource Person at Ravikamatham Mandal and worked from 01-03-2011 to 20-02-2012 on contract basis for one year. The duties and responsibilities as well as functions of the Mandal Resource Coordinators/Persons are also fixed as per the guidelines enclosed to the said letter No.CCDU/RWS&S/Mandal Resource Centre/2010 dt.18-09-2010. The 6th petitioner entered into agreement with the Executive Engineer, Rural Water Supply, Paderu, Visakhapatnam District (5th respondent) on the directions of the Superintending Engineer, Rural Water Supply, Visakhapatnam District (4th respondent).

18. After expiry of the agreement period, the 4th respondent extended the services of the 6th petitioner upto August, 2012 vide proceedings dt.01-08-2012 on the instructions of the District Collector, Visakhapatnam (2nd respondent), and the 4th respondent released the required grants towards monthly remuneration to 6th petitioner and others during their tenure upto August, 2012. Subsequently, the 6th petitioner was discontinued as Mandal Resource Coordinators and no order continuing his service as Mandal Resource Coordinator was received by 5th respondent from respondent Nos.2 to 4.

19. The 9th petitioner also claimed that he was appointed as Mandal Resource Person/Coordinator, but no appointment letter of the 9th petitioner is filed.

20. On the request of the 5th respondent, the 4th respondent circulated the file and obtained orders from the 2nd respondent to engage Mandal Resource Coordinators for 3 months from 01-05-2013 to 31-07-2013 through proceedings dt.22-04-2013. Accordingly, the 6th petitioner and others were taken as Mandal Resource Coordinators from 01-05-2013 to 31-07-2013 for three months and remuneration was paid to them. However, his services were again discontinued from 31-07-2013. Subsequently, Government issued G.O.Rt.No.1891 Panchayat Raj and Rural Development Department dt.23-11-2013 permitting the Engineer-in-Chief, Rural Water Supply and Sanitation, Hyderabad (3rd respondent) to engage the Mandal Resource Persons duly fixing qualification, experience and remuneration of Mandal Resource Coordinators for selection at District level by a committee consisting of respondent Nos.3 to 5 under the supervision of the District Collector basing on the instructions contained in said G.O.Rt., and selection process for selection of the Mandal Resource Coordinators was undertaken at the District level in Visakhapatnam District.

21. Petitioner Nos.6 and 9 allege that though they are well qualified and possess Graduation and Post Graduation, they were not

considered and that this arbitrary and illegal and violates Articles 14 and 16 of the Constitution of India.

22. In a letter dt.30-11-2013, the Dy.Executive Engineer, Rural Water Supply and Sanitation, Madugula wrote to the 5th respondent that services of Mandal Resource Coordinators are very essential and they attend various works at Gram Panchayat level and he recommended extension of service of petitioner Nos.1 and 4.

23. In W.P.M.P.No.2178 of 2014 in W.P.No.1814 of 2014, this Court directed the respondents to consider the case of petitioners for continuing them as Mandal Resource Coordinators as requested by 5th respondent by letter dt.30-11-2013 received by 4th respondent on 03-12-2013.

24. Respondents filed a counter affidavit through 5th respondent and contended that 9th petitioner was not appointed as Mandal Resource Person in Rural Water Supply and Sanitation Division, Paderu, but 6th petitioner was employed earlier as Mandal Resource Person and he also attended the interview and his case would be considered by the District Selection Committee on the basis of the instructions contained in G.O.Rt.No.1891 dt.23-11-2013.

W.P.No.2519 of 2014

25. Petitioners herein belong to Adilabad, Prasakam, Karimnagar, Medak and Khammam Districts and they claimed that they had been working as Mandal Resource Coordinators as per the

letter No.CCDU/RWS&S/Mandal Resource Centre/2010 dt.18-09-2010 referred to above; that though qualification of Graduation was prescribed in the said letter, it provided if such qualification is not possessed, even the persons having SSC/ Matriculation can also be appointed, but subsequently G.O.Rt.No.1891 dt.23-11-2013 was issued prescribing Graduation as minimum qualification for the post of Mandal Resource Coordinators and also prescribing the age limit of 25 to 35 years. They contend that this Government Order did not contain any provision for continuation of petitioners even though they are working for a longtime. They contend that new persons cannot be engaged as Mandal Resource Coordinators, that relaxation ought to be given to the petitioners by respondents and they cannot be made to lose their means of livelihood.

26. In W.P.M.P.No.3081 of 2014 in W.P.No.2519 of 2014, this Court granted interim direction to consider the case of petitioners for continuing them as Mandal Resource Coordinators pending disposal of the said Writ Petition.

27. W.V.M.P.No.2568 of 2014, W.V.M.P.No.2685 of 2014 and W.V.M.P.No.4107 of 2015 are filed to vacate the said order.

28. In the Counter-affidavit filed by the Superintending Engineer, Rural Water Supply & Sanitation, Karimnagar, it is admitted that petitioners were selected to the post of Mandal Resource Coordinators pursuant to the letter dt.18-09-2010 referred to above,

but stating that from September, 2012 they were not re-engaged. It is stated that in the Review Meeting held on 16-08-2012 with the Project Director, State Water and Sanitation Mission, Hyderabad and others, it was decided to discontinue the services of Mandal Resource Coordinators since their performance was not satisfactory and accordingly a memo dt.27-08-2012 was issued by the Project Director, State Water and Sanitation Mission directing the District Water and Sanitation Committees to discontinue the services of Mandal Resource Coordinators since no extension of their services was done. It is stated that subsequently, on 09-01-2013, a meeting was held on Nirmal Bharat Abhiyan programme by the Secretary, Rural Water Supply and Sanitation and instructions were given for extension of Mandal Resource Coordinators to pay remuneration to them based on their performance. Accordingly services of petitioners were extended till issuance of G.O.Rt.No.1891 dt.23-11-2013. It is stated that respondents have sympathy and concern for the Mandal Resource Coordinators, who are poor and downtrodden, but having regard to G.O.Rt.No.1891 dt.23-11-2013 they cannot relax qualification to benefit the petitioners. It is stated that after receipt of interim orders, steps were initiated and proposal was sent to the State Government on 11-08-2014 to relax the minimum qualification prescribed under G.O.Rt.No.1891 to enable the petitioners to get the benefit and that same was under consideration. It is stated that if the Government approves the

proposal, the services of petitioner Nos.20 to 24 would be continued without any hindrance.

W.P.No.3871 of 2014

29. Petitioners herein belong to Karimnagar, Mahaboobnagar and Prakasam Districts. Their pleading is similar to that of petitioners in W.P.No.2519 of 2014 and they also contend that they had been appointed as Mandal Resource Persons pursuant to the letter dt.18-09-2010 referred to above and were engaged for sometime but later after G.O.Rt.No.1891 dt.23-11-2013 came into force, they are being discontinued and that the State should relax the qualifications so that the petitioners also can be considered for appointment as Mandal Resource Coordinators.

30. In W.P.M.P.No.4777 of 2014 in W.P.No.3871 of 2014, interim order was granted to continue the petitioners as Mandal Resource Coordinators pending disposal of the Writ Petition.

31. W.V.M.P.No.2342 of 2014, W.V.M.P.No.2355 of 2015 and W.V.M.P.No.2460 of 2014 are filed to vacate the said order. Respondent Nos.4, 12 and 8 have filed separate counter-affidavits taking the same stand as was taken in W.P.No.2519 of 2014.

W.P.No.4218 of 2014

32. Petitioners herein belong to Mahaboobnagar District and they also claim that they were appointed as Mandal Resource Coordinators through letter dt.18-09-2010 referred to above and that

after G.O.Rt.No.1891 dt.23-11-2013 came into existence they are not being considered though they have worked as Mandal Resource Coordinators earlier. They reiterated that relaxation ought to be granted by the State Government to them so that they will not lose their employment.

33. In W.P.M.P.No.5210 of 2014 in W.P.No.4218 of 2014, interim order was granted to continue the petitioners as Mandal Resource Coordinators pending disposal of the Writ Petition.

34. W.V.M.P.No.2919 of 2014 is filed to vacate the said order. The Superintending Engineer, Rural Water Supply and Sanitation, Mahabubnagar has filed counter-affidavit reiterating the same stand taken in W.P.Nos.3871 and 2519 of 2014.

W.P.No.4871 of 2014

35. The petitioners herein belong to Karimnagar District. They state that they were appointed as Mandal Resource Coordinators vide letter dt.18-09-2010 referred to above, that they were continued for sometime and subsequently their contracts were not renewed. They contend that G.O.Rt.No.1891 dt.23-11-2013 prescribed the higher qualification and age limit and made them ineligible and the State should therefore relax the qualification and see that they do not lose their employment.

36. In this Writ Petition also, in W.P.M.P.No.6042 of 2014 an interim direction was issued to respondents to consider the services

of petitioners as Mandal Resource Coordinators pending disposal of the Writ Petition.

37. W.V.M.P.No.2567 of 2014 is filed to vacate the said order. The Superintending Engineer, Rural Water Supply and Sanitation, Karimnagar has filed counter-affidavit taking the same stand as in the earlier Writ Petitions.

THE CONSIDERATION OF CASE OF PETITIONERS IN W.P.Nos.1814, 2519, 3871, 4218 and 4871 of 2014 WHO ARE EMPLOYED IN THE RESIDUARY STATE OF ANDHRA PRADESH.

38. Since cases of petitioners who are employed as Mandal resource Coordinators in the State of Telangana has already been dealt with by me in W.P.No.3426 of 2016, I will now deal with cases of petitioners in the W.P.Nos.1814, 2519, 3871, 4218 and 4871 of 2014 who were employed in the residuary State of Andhra Pradesh after the bifurcation of the erstwhile State of Andhra Pradesh into the State of Telangana and the residuary State of Andhra Pradesh.

39. They claim that they had been working as Mandal Resource Coordinators as per the letter No.CCDU/RWS&S/Mandal Resource Centre/2010 dt.18-09-2010 referred to above; that though qualification of Graduation was prescribed in the said letter, it provided if such qualification is not possessed, even the persons having SSC/ Matriculation can also be appointed, but subsequently G.O.Rt.No.1891 dt.23-11-2013 was issued prescribing Graduation as minimum qualification for the post of Mandal Resource Coordinators

and also prescribing the age limit of 25 to 35 years. They contend that this Government Order did not contain any provision for continuation of petitioners even though they are working for a longtime. They contend that new persons cannot be engaged as Mandal Resource Coordinators, that relaxation ought to be given to the petitioners by respondents and they cannot be made to lose their means of livelihood.

40. The respondents contend that have sympathy and concern for the petitioners who were appointed as Mandal Resource Coordinators as they are poor and downtrodden, but having regard to G.O.Rt.No.1891 dt.23-11-2013 they cannot relax qualification of Graduation for appointment to the said post prescribed therein since petitioners are non-graduates. It is stated that after receipt of interim orders, steps were initiated and proposal was sent to the State Government on 11-08-2014 to relax the minimum qualification prescribed under G.O.Rt.No.1891 to enable the petitioners to get the benefit and that same was under consideration. It is stated that if the Government approves the proposal, the services of petitioner Nos.20 to 24 would be continued without any hindrance.

41. Having regard to the said stand, the petitioners who were employed in the State of Andhra Pradesh, if they are working as Mandal Coordinators as on date (except petitioners 1 to 5,7 and 8 who withdrew the W.P.1814 of 2014 and petitioner No. 9 therein whose appointment is not proved by any material) shall be continued till a

decision is taken by the said government whether or not to grant relaxation of the qualification of Graduation prescribed in G.O.Rt.1891 dt.23-11-2013 and the said decision is communicated to them.

42. Accordingly, W.P.Nos.1814 of 2014, 2519 of 2014, 3871 of 2014, 4218 of 2014 and 4871 of 2014 are disposed of as above in regard to petitioners employed in the State of Andhra Pradesh (except petitioners 1 to 5,7 and 8 who withdrew the W.P.1814 of 2014 and petitioner No. 9 therein whose appointment is not proved by any material) are concerned. Consequently, W.V.M.P Nos.2568 of 2014, 2685 of 2014 and 4107 of 2015 in W.P.No.2519 of 2014, W.V.M.P.Nos.2342 of 2014, 2345 of 2014 and 2460 of 2014 in W.P.No.3871 of 2014, W.V.M.P.No.2919 of 2014 in W.P.No.4218 of 2014, W.V.M.P.No.2567 of 2014 in W.P.No.4871 of 2014 are dismissed. No costs.

43. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-09-2017

Vsv/