

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.1845 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the *ad interim* order passed by the Learned Single Judge in W.P.No.33170 of 2017 dated 04.10.2017. The appellants herein filed the writ petition seeking a mandamus to declare the action of the Government of Andhra Pradesh, in issuing G.O.Ms.No.68 dated 18.09.2017 directing closure of the school without any notice, as illegal, arbitrary, capricious, and in violation of Section 26 of the A.P. Education Act, 1982 and Articles 14 and 21 of the Constitution of India.

While ordering Notice Before Admission returnable in four weeks, the Learned Single Judge took note of the allegation of the appellant-writ petitioners that the property of respondent No.6-School was likely to be sold away and, consequently, directed respondents 5 and 6 not to alienate or create any charge over the property. Contending that the Learned Single Judge ought to have suspended the impugned G.O, our jurisdiction under Clause 15 of the Letters Patent has been invoked.

Sri Y.S.Murthy, learned counsel for the appellant-writ petitioners, would draw our attention to Rule 10(16) of the A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules, 1993 (for short "the Rules") to submit that the 6th respondent ought to have given one year notice before closing the school; they were prohibited, by the Rules, from closing the School in the middle of the academic year; and, consequently, the Learned Single Judge ought to have suspended the G.O.

On the other hand, both the learned Government Pleader for School Education and Sri K.S.Murthy, learned counsel for respondents 5 and 6 would submit that the school is running as a Telugu Medium

School with only 81 students studying from Class I to Class X; no students were admitted in the academic year 2017-18; the management of the school had expressed their inability to continue to run the school, in as much as they were required to incur a monthly expenditure of more than Rs.1.5 lakhs; only five teachers were working in the said school; and no prejudice has been caused to the appellants (who are parents of students studying in the school) since these students have been accommodated elsewhere. Sri K.S.Murthy, learned counsel for respondents 5 and 6, would also submit that all the students have since joined other schools.

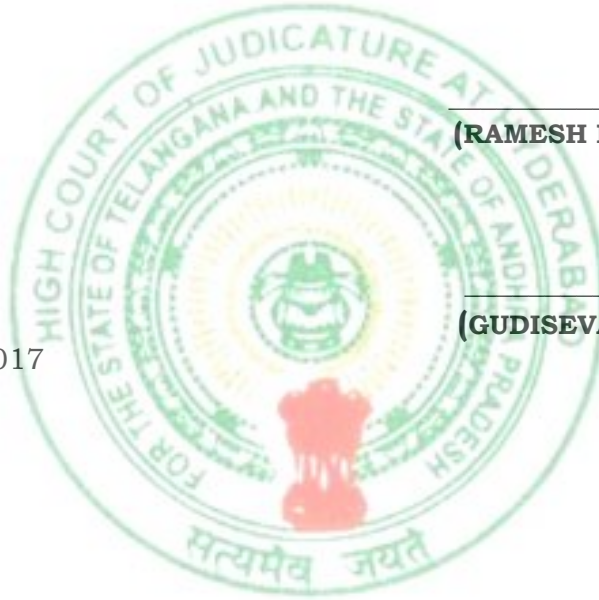
G.O.Ms.No.68 dated 18.09.2017 is an order passed by the Government of Andhra Pradesh on the basis of the letter submitted by the Commissioner of School Education dated 13.09.2017. The Government accorded permission for closure of the School, to shift the students to nearby Government/ZP/Aided Schools, and to transfer teachers, working thereat, to other needy aided schools in the District subject to the condition that there were no liabilities, and no litigation was pending in the Court of law. An undertaking was directed to be obtained from the management of the school that they would not claim any right to the property, and also from the teachers that they were willing to take the last rank and were willing for transfer, to avoid legal complications at a later date.

While Rule 10(16) of the Rules stipulates that the educational agency shall obtain permission from the competent authority for closure of any Class/Section with one year notice, and shall not close down in the middle of the academic year, it is brought to our notice, both by the learned Government Pleader for School Education and Sri K.S.Murthy, learned counsel for respondents 5 and 6, that the school has already been closed, and has not been functioning for the past nearly two months.

As the main writ petition is still pending admission before the Learned Single Judge, and the four weeks' notice issued therein expired more than a month ago, we see no reason to interfere with the order under appeal, as the appellant-writ petitioners can as well request the Learned Single Judge to take up the writ petition for admission and for grant of interim relief. We have no reason to doubt that, on such a request being made, the Learned Single Judge would give it its due consideration.

Subject to the aforesaid observations, the Writ Appeal fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

08th December, 2017
JSU



(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

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Date: 08.12.2017