

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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.A.NO.1878 of 2017

% Date: 11-12-2017

Between:

1. Boddu Chandra Sekhar, S/o. Venkateswarlu, Inclusive Education Resource Teacher (H.I), Yaddanapudi, Prakasham District, A.P.
2. K. Brahmaiah, S/o. Sreenivaulu, Inclusive Education Resource Teacher (H.I), Gudlur Mandal, Prakasham District, A.P.
3. Duggi Sreenivasulu, S/o. Pedda Kotilingam, Inclusive Education Resource Teacher (H.I), Dornala Mandal, Prakasham District, A.P.
4. Shaik Khasimbi, D/o. Bandi Saheb, Inclusive Education Resource Teacher (H.I), Dornala Mandal, Prakasham District, A.P.
5. K. Suresh, S/o. Anjaiah, Inclusive Education Resource Teacher (H.I), Yerragondapalem Mandal, Prakasham District, A.P.
6. Y. Venkateswarlu, S/o. Purushotham Reddy, Inclusive Education Resource Teacher (H.I), Dornala Mandal, Prakasham District, A.P.
7. N. Sujatha, D/o. Narayana, Inclusive Education Resource Teacher (H.I), D.S. Puram Mandal, Prakasham District, A.P.
8. B.V.K. Harinath, S/o. Lakshmikantha Rao, Inclusive Education Resource Teacher (H.I), Pullacheruvu Mandal, Prakasham District, A.P.
9. B. Janardhan Rao, S/o. B. Koteswar Rao, Inclusive Education Resource Teacher (H.I), Pedda Araveedu Mandal, Prakasham District, A.P.
10. K. Venkata Subbaiah, S/o. Venkataiah, Inclusive Education Resource Teacher (H.I), Komarolu Mandal, Prakasham District, A.P.

.... Appellants

And

1. The State of Andhra Pradesh, Department of School Education, Velagapudi, Amaravathi, rep. by its Special Chief Secretary,.
2. The Sarvasiksha Abhiyan, rep. by its State Project Director, A.P.S.S.S.A., Amaravathi, Andhra Pradesh.
3. The District Collector, Prakasham District, Ongole, Prakasham District, A.P.
4. The Project Director, Sarva Siksha Abhiyan, Ongole, Prakasham District, A.P.,
5. District Educational Officer, Ongole, Prakasham District, A.P.
6. M. Venkata Kondaiah, S/o. G. Baludu, R/o. H.No.3-120, Obulareddypalli Village, Palakaveedu Post, Racharla Mandal, Prakasham District, A.P.
7. G.C. Koteswara Rao, S/o. Desaiah, R/o. Uppalapadu, Addanki Mandal, Prakasham District, A.P.

8. Sujatha Reddy D/o. Pedda Malla Reddy, R/o. R. Kothapalli, Kalagotla Post, Bestawaripeta Mandal, Prakasam Dsitrict, A.P.
9. Shaik Mahaboob Basha, S/o. Shaik Mahaboob, R/o. Medara Bazar, Ardaveedu Mandal, Prakasam Dsitrict, A.P.
10. P. Anjaneyulu, S/o. Atchaiah, R/o. Ardaveedu Post & Mandal, Prakasam Dsitrict, A.P.
11. Masthan Basha Shaik, S/o. Zamalavalli, R/o. H.No.18/17/127-53/2c3, Nallabande Street, Near maddin Majid, Giddaluru mandal, Prakasam District, A.P.

... Respondents

- ! Counsel for the appellant : Mr. Posani Subba Rao
- ^ Counsel for Respondent Nos.1 & 5 : G.P. for Education (AP)
- ^ Counsel for Respondent Nos.2 to 4 : Mr. G. Seenra Kumar
- ^ Counsel for Respondent Nos.6 to 11 : Mr. P. Veerabhadra Reddy

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> HEAD NOTE:

? Cases referred



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1878 of 2017

JUDGMENT: (Per VRS,J)

Aggrieved by the order of the learned Single Judge setting aside their appointments as Inclusive Education Resource Teachers, the respondents in a writ petition have come up with the above writ appeal.

2. Heard Mr. Rajendra Babu, learned counsel appearing for Mr. P. Subba Rao, learned counsel for the petitioners. The learned Government Pleader for Education (A.P.) takes notice for respondents 2 and 4. Mr. P. Veerabhadra Reddy, learned counsel takes notice for the unofficial respondents, who are the writ petitioners.

3. Pursuant to a notification, dated 29.10.2016, the respondents 6 to 11 applied for appointment to the post of Inclusive Education Resource Teacher (MR category). Only 5 vacancies were notified and four have already been filled up.

4. But the grievance of the respondents 6 to 11 was that vacancies intended for Inclusive Education Resource Teacher (MR category), are occupied by the teachers, who are qualified to teach visually impaired and hearing impaired. Therefore, they filed a writ petition in W.P.No.29043 of 2017 on the file of this Court. The learned Single Judge found that the qualification required, for teaching mentally retarded children, is unique and that therefore, the respondents should fill up the posts of teachers intended to teach mentally retarded children separately. Accordingly, the learned Judge set aside the appointments of the appellants herein and directed a fresh process of recruitment to be undertaken. Aggrieved by

the said order, the petitioners, who have been working from 2014-2015, have come up with the above writ appeal.

5. The contention of Mr. Rajendra Babu, learned counsel for the appellants is that the appellants were recruited pursuant to the notification, which merely called for applications from persons, who could be appointed as special educators and that only after finding the appellants eligible for appointment, they were appointed as special educators and that therefore their appointment, continued from time to time, cannot be questioned.

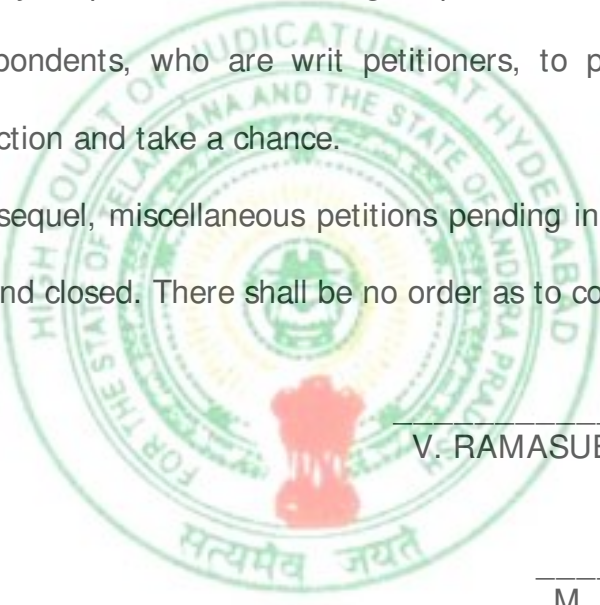
6. It may be true that from the year 2014-2015 the appellants are continued, after being selected for appointment as Special educators. But even in the order of appointment, it was made clear that once the persons who were trained to teach mentally retarded children are appointed, the appellants would be displaced. In such circumstances it is clear that the qualifications required for teaching mentally retarded children are distinct and different from those required for teaching visually impaired and mentally impaired. They may require some kind of special training though the academic and B.Ed qualifications may be the same.

7. The next grievance of the appellants is that when they are lawfully appointed and continued from time to time, there was no occasion of the learned Judge setting aside the same. The grievance is partly justified and can also be redressed. The Government has a duty to appoint persons, who are specially trained, to take care of and to teach mentally retarded children. The duty cannot be shirked by continuing in service the persons who are specially trained in audiology and speech therapy. However till a notification is issued and appointments are made to the special category, it is not necessary to keep schools without

teachers. Therefore, to that extent the order of the learned Judge requires modification.

8. In view of the above, the writ appeal is partly allowed setting aside only that portion of the order of the learned Judge which mandates the termination of services of the appellants herein. However, the State Government and respondents 2 and 4 shall proceed with recruitment to MR category, as per the time schedule fixed by the learned Judge. As soon as a selection to MR category is made, the appellants herein shall either be sent out or accommodated against the vacancies intended for teaching visually impaired and hearing impaired. It is open to the contesting respondents, who are writ petitioners, to participate in the process of selection and take a chance.

9. As a sequel, miscellaneous petitions pending in this writ appeal, if any, shall stand closed. There shall be no order as to costs.



V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

11th December, 2017
Js.

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1878 of 2017



11th December, 2017

Js.