

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.982 of 2016

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

The prayer in the writ petition is as under:

“For the aforementioned reasons, it is therefore prayed that this Hon'ble Court may be pleased to pass an order or issue a writ particularly one in the nature of writ of mandamus declaring the act of the official respondents in not cancelling license of 5th respondent as license surveyor as illegal and arbitrary and consequently direct the official respondents to conduct enquiry and take necessary action against the 5th respondent and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The facts of the case are that the petitioner is the resident of Sircilla, Karimnagar District and is working as Licence Surveyor and President of Civil Engineers and Architects Welfare Association, Sircilla. The grievance of the petitioner is that the 5th respondent while working as a Licence Surveyor also working as a Lecturer from 1996 in Government Junior College (Boys), Sircilla, and as per the information furnished by the Principal of the said College, he has been attending the classes regularly and drawing salary. It is further stated that the 5th respondent was appointed as Licence Town Planner/Surveyor. Since he is already working as Lecturer in Government Junior College, Sircilla, he is ineligible to hold the said post as per the rules. The 5th respondent has concealed the aspect that he is working as Lecturer in a junior college and obtained the post of Licence Surveyor thereby played fraud on the authority concerned. Though the petitioner submitted an application under Right to Information Act, 2005, to furnish the details relating to the action taken, no information is furnished. Aggrieved by the same, the present writ petition is filed.

Per contra, the 5th respondent filed a counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that a person who is appointed as a Licenced Town Planner/Surveyor under Section 344 of the A.P. Municipalities Act, 1965 (for short, “the Act”), is not a Government employee, but is a recognition given by the municipal authorities to prepare the building plans and also to conduct the survey of the sites within the parameters of the provisions of the Act as well as the building rules and the license conditions. It is also stated that because of the high qualifications and experience, he is rendering his services as part time i.e., hourly based junior lecturer in Government Junior College (Boys) at Sircilla. Therefore, it cannot be said that he is working as a Lecturer on regular basis by drawing salary. In fact, it is only a part time job. Hence, he sought dismissal of the writ petition.

A perusal of the material on record would disclose that the 5th respondent has obtained license from the 3rd respondent Municipality under Section 344 of the Act. Every license and permission granted under this Act will be only for a specific period with some restrictions and conditions subject to which the same is granted. Therefore, it cannot be said, as alleged by the petitioner, that the 5th respondent is a regular licensed surveyor of the Sircilla Municipality. Since the 5th respondent is taking classes on hourly basis in the Government Junior College (Boys), Sircilla, he is not a regular lecturer on the rolls of the said College by drawing salary. Though the above said specific averments are made in the counter affidavit, no reply

affidavit is filed by the petitioner controverting the said aspects. Therefore, it cannot be said that the 5th respondent is working in two posts and thereby playing fraud on the authorities. In these circumstances, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

Date: 18.04.2018.
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JUSTICE P. KESHA RAO