

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.1883 OF 2007

ORDER:

1. This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in not paying the Maintenance Grant to the petitioner-school in terms of G.O.Ms.No.320, dated 16.9.1994 for the period from 1.3.1979-80 to 28.2.2006, as arbitrary and illegal, and consequently, to direct the respondents to pay Maintenance Grant to the petitioner-school forthwith.

2. Subsequently, the petitioner filed WPMP No.49065 of 2016 seeking amendment of the above prayer in the writ petition to the following effect:

“to declare the action of the respondents in not paying the Maintenance Grant at the rate of 6% p.a., on the basic pay of Teaching Grant, as arbitrary and illegal, and consequently to direct the respondents to pay Maintenance Grant on the basic pay @6% p.a., to the management of the petitioner-school without taking into consideration the Act 34 of 2007 dated 14.12.2007.”

This Court ordered the above WPMP vide order dated 5.1.2018.

3. Heard Sri B. Ravinder Reddy, learned Counsel for the petitioner and the learned Government Pleader for School Education.

4. It has been submitted by the learned Counsel for the petitioner that the petitioner-school was established way back in the year 1918 and it was granted necessary permission and permanent recognition by the competent authority and since then, it has been discharging its functions without any complaint from any quarter. It has been submitted by the learned Counsel for the petitioner that the petitioner-school is entitled for Maintenance

Grant as per the rules of the Grant-in-Aid code to meet the expenditure like Maintenance of Electricity charges, Telephone Rent, Office Stationary, Water Tax, Contingent salaries, Repairs and upkeep of the building, classrooms etc. and the Government introduced an Ordinance No.7 of 1994 to regulate the fixation and payment of Maintenance Grant to private educational institutions in the State and the said ordinance was made an Act 11 of 1995 called as “The Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Act, 1995”. Further, it has been submitted by the learned Counsel for the petitioner that similar issue was considered by this Court in W.P.No.3449 of 2003 dated 30.9.2016 with the following observations:

“In any view of the matter, the contention of the learned Government Pleader is that the petitioner is not entitled to Maintenance Grant in view of G.O.Ms.No.320 which was struck down by this Court in the judgments in **Recognized Schools Managements Associations, A.P. Vs. Government of A.P., Education Department and another** (1997 (3) ALD 40) and **Unni Krishnan J.P. & others Vs. State of Andhra Pradesh & Others** (1993 AIR 2179). Even otherwise, the discriminatory attitude of the Government giving concession to one educational institution and denying benefit to the petitioner’s educational institution cannot be encouraged by the Courts, since it is arbitrary and discriminatory in not releasing grant-in-aid to the petitioner’s association whose object is to provide free education. In those circumstances, this Court has no option except to hold that the inaction of the respondents is arbitrary in not releasing the maintenance grant-in-aid to the petitioner’s educational institution and consequently, I hold that the petitioner is entitled to all the benefits as decided in **Recognized Schools Managements Associations** case. Hence, the respondents are directed to work out maintenance grant @ 6% and arrange to pay the same within a period of three months from the date of receipt of a copy of this order to the petitioner’s educational institution, on par with other schools.”

5. The learned Government Pleader has fairly conceded that the issue involved in this writ petition is squarely covered by the judgment rendered in W.P.No.3449 of 2003, dated 30.9.2016.

6. Having considered the submissions made by both the Counsel, this Court is of the view that this writ petition can be disposed of in terms of the judgment of this Court in W.P.No.3449 of 2003 dated 30.9.2016.

7. Accordingly, the Writ Petition is allowed in terms of the order in W.P.No.3449 of 2003 dated 30.9.2016. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

8. Registry is directed to annex a copy of the order in W.P.No.3449 of 2003, dated 30.9.2016, to this order.

28th March, 2018
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(ABHINAND KUMAR SHAVILI,J)



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