

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.2127 OF 2006

ORDER:

Petitioner-A.K.Navjivan Women's College, Hyderabad, filed this Writ Petition being aggrieved by the proceedings No.1879/Admn.V-2/95 dated 16.09.2005 and R.C.No.1879/Admn.V-2/95 dated 23.12.2005 issued by the first respondent.

Facts leading to filing of the writ petition, in brief, are as follows:

4th respondent, who worked as Senior Assistant in petitioner-College, was placed under suspension, pending further enquiry, on the allegations that he availed leave frequently in the year 1994, his absence resulted in serious problem to the administrative work of the College, he failed to complete the accounts, he had replied irresponsibly to the letter of the Principal dated 20.12.1994 in that regard and he failed to prepare UG accounts by collecting materials from the Superintendent, which shows negligence on his part. 4th respondent submitted a detailed explanation denying the said allegations. Having not satisfied with the explanation, petitioner-College appointed an Enquiry Officer and the Enquiry Officer after conducting a detailed enquiry, submitted Enquiry Report on 28.02.1995. Based on the same, a show cause notice was issued to the 4th respondent asking to submit his explanation as to why he should not be removed from service, to which he submitted explanation on 18.03.1995. After obtaining approval from the Commissioner of Collegiate Education, on 29.05.1995, under the provisions of Section 79 of the Andhra Pradesh Education Act (for short, 'Education Act'), the

Special Officer, who was appointed to manage the affairs of the petitioner-College, passed the termination order on 01.06.1995. Questioning the same, 4th respondent filed W.P.No.11328 of 1995 before this Court challenging the termination order. This Court by order dated 09.09.1999 quashed the impugned order of termination giving liberty to the petitioner herein, to proceed against the 4th respondent from the stage anterior to the impugned orders of termination, in accordance with law. Pursuant to the same, the petitioner-College passed fresh termination orders on 05.10.1999, terminating the petitioner from service, but without prior approval of the authority under Section 79 of the Education Act. Hence, the Commissioner and Director of Collegiate Education, Hyderabad, first respondent, vide proceedings in RC No.1877/PC.3-2/95 dated 02.11.1999 directed the petitioner-College to reinstate the 4th respondent into service as Senior Assistant at first instance and thereafter to initiate disciplinary proceedings as per the orders of this Court. Again on 28.03.2000 the first respondent directed the petitioner-College to take the 4th respondent into service and report compliance by 05.04.2000. The petitioner-College submitted reply to the first respondent stating that the directions of the first respondent could not be complied since the 4th respondent was already terminated from service by fresh termination order dated 05.10.1999. In this regard, the impugned proceedings of the 1st respondent came to be passed directing the petitioner-College to comply with orders dated 02.11.1999 and 28.03.2000 failing which action will be taken against the petitioner as per Section 24 (3) of the Education Act for non-implementation of his orders, illegally and arbitrarily. Being aggrieved by the same, the present writ petition came to be filed.

Sri P.Srinivasa Rao, learned counsel appearing for the petitioner, would mainly contend that the first respondent had issued impugned proceedings dated 16.09.2005 and 23.12.2005, *in spite* of specific replies given to the first respondent stating that the 4th respondent was terminated by proceedings dated 05.10.1999 pursuant to the orders passed by this Court in W.P.No.11328 of 1995 dated 09.09.1999. Hence, the question of reinstating the petitioner does not arise and the impugned proceedings are not binding on the petitioner-Institution. Thus, he would contend that the impugned orders are liable to be set aside.

Per contra, the learned Government Pleader for Higher Education, Telangana, would contend that the first respondent asked the Correspondent of the petitioner-College to submit his explanation for non-compliance of the order dated 02.11.1999 and 28.03.2000 and also asked whether the petitioner Institution have obtained prior permission of the competent authority before terminating the 4th respondent *vide* proceedings dated 05.10.1999 as required under the provision of Section 79 of the Education Act. Once again, the petitioner-institution was directed to comply with the instructions issued on 02.11.1999 and 28.03.2000 and report compliance or otherwise action would be initiated as per Section 24 (3) of Education Act. Further, the first respondent also passed orders dated 16.09.2005 directing the petitioner Institution to comply with the orders passed in W.P.No.11328 of 1995 dated 30.09.1999 and take further action as the writ petition filed by the 4th respondent in W.P.No.11169 of 2001 was only for payment of wages and it cannot be said to be illegal and arbitrary.

In the facts and circumstances of the case and in considered view of this Court, it is found that the impugned orders of the first respondent are contrary to the provisions of the Education Act. When the 4th respondent was already terminated from service by the petitioner-Institution by proceedings dated 05.10.1999, the action of the 1st respondent directing the petitioner-Institution to comply with the instructions dated 02.11.1999 and 28.03.2000 and report compliance is illegal and the 1st respondent has no authority to do so under the provisions of the Education Act. Therefore, the impugned proceedings dated 16.09.2005 and 23.12.2005 are liable to be set aside and are accordingly set aside.

Accordingly, the Writ Petition is allowed.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

7th September, 2018
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(M.GANGA RAO, J)