

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.24970 and 17643 OF 2017

COMMON ORDER :

WP.No.24970 OF 2017:

This writ petition is filed challenging the impugned letter of Contract offer vide Rc.No.Spl/Re-engagement/IERTs/SSA/2017-2018, dated 20.07.2017 issued by the 4th respondent re-engaging the unofficial respondents 6 to 27, as IERTs in the vacancies of MR (Mentally Retarded) category, initially for a period of three months, on conditional basis that they should acquire the requisite qualification i.e. B.Ed (MR) or D.Ed. (MR) within a period of three years to consider their candidature in future.

WP.No.17643 OF 2017:

This petition is filed challenging the proceedings in RC.No.1581/APSSA/IE/A11/2017, dated 26.04.2017 issued by the 2nd respondent directing all the District Project Officers to fill up the Inclusive Education Resource Teachers (*for short* 'IERTs) vacancies (MR) category with B.Ed (MR)/ D.Ed (MR) qualified candidates duly replacing HI/VI category IERTs, who are working conditionally in the positions of MR category IERTs as per the guidelines issued by its office vide proceedings in Rc.No.40/RVM (SSA)/IE/C5/2005. dated 27.04.2013.

The petitioners in WP.No.17643 of 2017 are the unofficial respondents in WP.No.24970 of 2017.

Since the subject matter in both the writ petitions is one and the same, these writ petitions are being heard together and disposed of by this common order and the parties will be referred as per their array in WP.No.24970 of 2017.

The case of the petitioners in WP.No.24970/2017 is that the 4th respondent issued notification for conducting written test for Inclusive Education Resource Teachers (*for short 'IERTs'*) for the year 2016-2017 as per the proceedings of the 2nd respondent vide Proceedings Rc.No.672/APSSA/IE/A11/2014, dated 19.10.2016. In pursuance of the said notification, since petitioners possess B.Ed(MR)/D.Ed (MR), they appeared for written test and qualified for appointment as IERTs in the vacancies of MR (Mentally Retarded) category. It is stated that one IERT (MR) category and one IERT (HI/VI) category, are to be engaged in the Mandals as per the instructions issued by the 2nd respondent vide proceedings dated 26.04.2017; that the 4th respondent vide proceedings dated 19.05.2017 issued instructions to the Mandal Education Officers to reengage 78 IERTs with effect from 03.05.2017 in the concerned IERTs/Non IERTs after reducing the 23 unqualified IERTs working in MR category. As the petitioners are qualified to work as IERTs in the vacancies of MR category and also passed the written test conducted by the department on 18.12.2016, they have submitted representations to the 1st respondent dated 11.07.2017 to engage them as IERTs in the vacancies of MR category. The unofficial respondents who were not qualified to work as IERTs in MR

category but engaged as IERTs (MR) category in 2016-2017 for want of qualified candidates, have approached this Court by filing WP.No.17643/2017 to continue them as IERTs for the current academic year 2017-2018 and this Court in WP.MP.No.21537/2017 in WP.No.17643/2017 passed the following interim order on 05.06.2017;

“Any appointment made by respondents 2 and 4 in the positions of MR category Inclusive Education Resource Teacher (IERT) shall be subject to the further orders in the WP.MP.”

Basing on the interim order, the 2nd respondent issued the impugned letter of contract offer dated 20.07.2017 reengaging the unofficial respondents herein who are petitioners therein, against the posts of IERTs (MR) category for the academic year 2017-2018. Aggrieved by the same, writ petition No.24970/2017 is filed.

Learned counsel for the petitioners in WP.No.24970/2017 submits that similar issue is considered in respect of Prakasam District in WP.No.29043/2017 wherein the proceedings issued reengaging the unofficial respondents therein as IERTs (MR) category, was set aside by order dated 09.11.2017 which reads as follows;

“In the circumstances, the writ petition is allowed setting aside the appointment of the respondents 6 to 15 and directing the respondents 2 to 4 to issue fresh notification of the remaining vacancies in respect of MR category as well as HI/VI category and invite applications from the qualified candidates. The appointments to the said

vacancies shall be made only by qualified candidates as these posts are specialised posts, where the requisite qualification is required. The entire selection process shall be completed within one month from the date of receipt of a copy of this order, so as not to cause any inconvenience to the students.”

Challenging the aforesaid writ petition the unofficial respondents filed Writ Appeal No.1878/2017 and this Court partly allowed the Writ Appeal with a slight modification which reads as follows;

“In view of the above, the writ petition 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.”

Learned counsel for petitioner also submits that the unofficial respondents are not qualified to hold IERTs (MR) category, since they are only qualified to hold the post of IERTs (HI/VI) category and the present issue is squarely covered by the aforesaid order rendered by the Division Bench of this Court in WA.No.1878/2017 referred to above.

Heard learned counsel for unofficial respondents who are petitioners in WP.No.17643 of 2017 and Sri G.Seena Kumar, learned counsel for respondents 2 and 4 who submits that the issue is squarely covered by the orders in WP.No.29043 of 2017 as confirmed in WA.No.1878/2017.

Learned counsel appearing for petitioners in WP.No.17643/2017 who are unofficial respondents in WP.No.24970/2017, also did not dispute the fact that the issue is covered by the orders in Writ Appeal No.1878 of 2017.

In view of the above, since the unofficial respondents in WP.No.24970/2017 are re-engaged by impugned proceedings dated 20.07.2017 only basing on the interim orders of this Court in WP.MP.No.21537/2017 in WP.No.17643/2017, wherein this Court only stated that any appointments made by the respondents shall be subject to further orders, and since, there is no positive direction to re-engage the unofficial respondents, it goes to show that the official respondent without applying mind only to favour the unofficial respondents have passed the impugned order.

In view of the same and in view of the orders passed by this Court in similar issue in WP.No.29043/2017 setting aside the appointment of the respondents 6 to 15 therein, the impugned order dated 20.07.2017 issued by the 4th respondent re-engaging the unofficial respondents as IERTs (MR) category on conditional basis, is set aside and there shall be direction to the official

respondents to proceed with the selection process of recruitment of IERTs(MR) category for the year 2017-2018 as per the results dated 18.12.2016 announced by the respondents for the written test conducted pursuant to the proceedings dated 19.10.2016, in accordance with Rules.

Accordingly, WP.No.24970 of 2017 is allowed. Consequently, WP.No.17643/2017 is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

04.04.2018
t k.



A.RAJASHEKER REDDY, J