

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Petition No.19632 of 2018

ORDER: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

In this writ petition, the validity of Rule 11(2) of the Telangana Teachers (Regulation of Transfers) Rules, 2018 (for short "the 2018 Rules"), notified in G.O.Ms.No.16 dated 06.06.2018, is questioned as being illegal, null and void. A consequential direction is sought to the respondents to effect transfer counselling to the petitioners and others medium wise in the category of School Assistant (English), as was done earlier by preparing a seniority list of School Assistants separately medium wise for different medium schools, after holding the action of the respondents, in posting the School Assistant (English) teachers who did not study in Urdu Medium schools, as illegal, arbitrary, discriminatory and subversive of Articles 14 and 16 of the Constitution of India.

Sri Ch.Jagannatha Rao, learned counsel for the petitioners, would draw our attention to the adhoc rules, for the Andhra Pradesh School Educational Subordinate Service, as notified in G.O.Ms.No.12 dated 23.01.2009 (for short "the 2009 Rules"). These Rules were made in the exercise of the powers conferred by Sections 78 and 99 of the Andhra Pradesh Education Act, 1982, the proviso to Article 309 of the Constitution of India, and in supersession of the adhoc Rules notified in G.O.Ms.No.183 dated 30.12.2008.

The 2009 Rules prescribe the qualification for appointment to different posts of teachers in Zilla Praja Parishad Schools, and Mandal Praja Parishad Schools. Rule 5(ii) thereof stipulates that candidates, who have passed SSC Examination in the concerned medium or with the concerned Language as the First Language, are eligible to apply to

the posts in the concerned medium; and the candidates, who have passed the examination of Higher standards in the concerned language/medium, are also eligible to apply to the posts in that medium.

Relying on Rule 5(ii) of the 2009 Rules, Sri Ch.Jagannatha Rao, learned counsel for the petitioners, would contend that all the petitioners, on their having passed SSC examination in Urdu as the first language, were appointed in Urdu Medium Schools as Secondary Grade Teachers and School Assistants, *albeit* as Teachers in English. They are aggrieved by Rule 11(2) of the 2018 Rules. Rule 11 thereof relates to the notification of a seniority list etc, and Rule 11(2) reads as under:

“After the last date for applying for transfers as per Schedule and validation of the information provided in the applications by the competent authority, the seniority list shall be generated by the web counselling software based on the entitlement points, management wise; district wise/zone wise; category wise; subject wise; medium wise (except for Language Teachers and HMs Grade-II(Gazetted); area wise i.e agency/plain area and the seniority list with entitlement points shall be displayed in the counselling website and also on the notice board of the District Educational Office/Regional Joint Director of School Education Officer concerned.”

In terms of Rule 11(2) of the 2018 Rules, after the last date for application for transfer as per the Schedule, a seniority list would be generated based on the entitlement points - management wise; district wise/zone wise; category wise; subject wise; medium wise etc, and the seniority list with entitlement points shall be displayed in the counselling website, and also on the notice board. However, an exception to Rule 11(2) is in relation to Language Teachers and Head Masters Grade II (Gazetted) for whom the entitlement points are not to be prepared subject wise or medium wise. The petitioners' grievance is that this exception, to Rule 11(2) of the 2018 Rules, would require the petitioners, who were hitherto working only in Urdu Medium Schools, to now work in either English Medium or Telugu Medium Schools, besides

Urdu Medium schools, and such a Rule violates their fundamental rights under Article 14 of the Constitution of India.

It is not in dispute that all the petitioners herein are either Secondary Grade Teachers or School Assistants teaching English. It is not as if they were hitherto teaching Urdu Language in Urdu Medium School, and their transfer either to an English Medium or a Telugu Medium School would now require them to teach either Telugu or English. They were hitherto teaching English to students in Urdu Medium Schools, and even if they are transferred to Schools, other than Urdu Medium Schools, such as English Medium or Telugu Medium Schools, they would, as Secondary Grade Teachers or Schools Assistants, continue to teach only English. The mere fact that they were initially appointed on the stipulation that their first language in S.S.C would be the criteria for appointment in Schools, would neither render Rule 11(2) of the 2018 Rules, whereby Language Teachers and Head Masters Grade-II are treated as exceptions and are liable to be posted anywhere within the District without reference to the Medium of the School concerned, illegal nor would it confer any right on them to claim that they can only be transferred to the same medium schools where they were initially appointed which, in the present case, are Urdu Medium Schools. As long as the petitioners are required to teach English, be it in Urdu, Telugu or English Medium Schools, the action of the respondents, in posting the petitioners to a school where the medium of instruction is other than the schools in which they were initially appointed, cannot be faulted.

Secondary Grade Teachers/School Assistants teaching a Language constitute a class different and distinct from other Secondary Grade Teachers/School Assistants. The object of excluding them, from the restriction of being transferred to schools medium wise, is only to

enable their services to be engaged in other medium Schools to teach students English. Such a classification can neither be said to be arbitrary nor discriminatory violating Article 14 of the Constitution of India. In any event, transfer is an incidence of service, and the petitioners, who all hold transferable posts, are required, in terms of the Rules, to go and work wherever they are posted. They cannot claim, as of right, that their transfer should be effected only in the very same medium schools where they were initially appointed.

The Writ Petition, as filed, is wholly misconceived and is accordingly dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

19th June, 2018
JSU



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AND
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Date:19.06.2018

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