

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22138 OF 2018

DATED : 06.07.2018

Between :

M.Subhash S/o.Adellu,
Age : 45 yrs, Occu : Language Pandit (Telugu),
M.P.U.P.S.Bhadi, Bela Mandal, Adilabad District & another.

.. Petitioners

And

The State of Telangana,
School Education (Ser.II) Department,
Rep., by its Special Chief Secretary to Government,
Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

Heard.

2. Petitioners claim that the place BHADI where they are working do not have proper road connectivity during the period from the year 2009 to 2012 and therefore, the place should be treated as belonging to Category-IV for the purpose of awarding appropriate weightage points and are aggrieved by treating the said village under category III in the transfer counselling process.

3. According to learned counsel for the petitioners a representation was made on 20.06.2018 requesting the District Educational Officer, Adilabad to treat their school as belonging to Category-IV and not Category-III as during the relevant period from 2009-2012 there was no connectivity and similar representation was also made to the District Collector, Adilabad but the same is not acted upon depriving the petitioners' entitlement points under category III.

4. Learned Government Pleader placed before this Court the proceedings of the District Collector, Adilabad bearing Rc.No. B4/1848/2018 signed on 19.06.2018 enclosing the list of schools which have connectivity in Adilabad district as on 18.06.2018. The school where the petitioners are now presently working is shown as Item No.49. According to learned Government Pleader, as there is connectivity, petitioners are not entitled to claim weightage points by treating the school location in Category-IV.

5. Consequent to lifting of ban on transfers Government notified 'the Telangana Teachers (Regulation of Transfers) Rules, 2018' (for short 'the Rules, 2018') vide G.O.Ms.No.16 dated 06.06.2018. Rule 6 of the Rules, 2018 prescribes entitlement points. The schools in which teachers are working are categorized based on the location and house rent allowance payable. In this case issue whether the concerned school falls into Category-IV. Notes 1 & 2 are appended to Paragraph-I of Rule 6. Note one deals with habitation based on location. Category IV of Note 1 and Note 2 reads as under:

"Category IV : All Habitations/Towns where 12% HRA is admissible, and which do not have connectivity through an all weather road as per the norms of the Panchayat Raj (Engineering) Department.

Note 2 : The District Collector shall publish the list of habitations in the district which do not have connectivity through all weather road as per the norms of Panchayath Raj (Engineering) Department in consultation with the Superintendent Engineer, P.R. of the district for this purpose, and the same shall be final."

6. A bare reading of Note 2, makes it clear that to include a school in Category-IV, the District Collector should intimate the competent authority about connectivity through all weather road as per norms of Panchayat Raj (Engineering) Department in consultation with the Superintendent Engineer. If there is all weather road connectivity, concerned school will not be treated as Category-IV school. Proceedings of the District Collector would show that he has obtained information from Superintendent Engineer, Panchayat Raj department and compiled the villages which have the road connectivity. According to this compilation

and the proceedings, 'BADI' has road connectivity from June, 2004. Thus, it cannot be treated as falling into Category-IV.

7. Learned counsel for the petitioners sought to place reliance on the Rules notified vide G.O.Rt.No.65 dated 19.05.2011 based on which the transfer counselling took place in the year 2011. Rule 7 deals with entitlement points. The Note appended to Rule 7 of the said rules to the extent relevant reads as under:

“Category -IV : All Habitations/Towns where 12% HRA is admissible, but not having Transport facilities within a radius of 3 KMs from the school point to the bus stop/Railway Station.”

8. He would submit that as the school was falling into this category IV, during the period 2009-2012 as per those Rules, entitlement points should be given to the petitioners.

9. This contention cannot be appreciated as those Rules were applicable only for the transfer exercise undertaken in the year 2011. Transfers now undertaken by the government are governed by the 2018 rules. 2018 rules adopted new method of categorisation. Petitioners cannot rely upon non-existing rules and rules governing 2011 transfers for the present transfer exercise. In terms of 2018 rules, what is required to determine the school into Category-IV is whether the school is lacking all weather road connectivity. The 2018 rules are not under challenge. As the school where petitioners are working is having the all whether road connectivity, they cannot claim to fall into Category-IV. The relief prayed by the petitioners cannot be granted and the same is liable to be dismissed.

10. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Pending miscellaneous petitions shall stand closed.

6th July, 2018
Rds

P.NAVEEN RAO,J

