THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.4686 OF 2001

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the Government Memo No.22626/PS.I/1999-5, dated 25.01.2001, directing the third respondent to return the amount of Rs.4,71,059/- to the 4th respondent as mala fide, arbitrary, illegal, violative of principles of natural justice, abuse of power and against public interest and violative of Articles 14 and 21 of the Constitution of India, and consequently to set aside the same and direct the respondents to pay the said amount to the petitioners.

2. The case of the petitioners is that they worked as Teachers in the 4th respondent school, which is an aided one. The petitioners were appointed in unaided posts and the details are as follows:

S.No.	Name of the Petitioner	Date of Appointment
1.	G.Purnachander	02.11.1992
2.	Akthar Begum	26.06.1989
3.	A.Lourdu Reddy	02.11.1992
4.	T.Rajaiah	30.06.1990

While they were working in unaided posts, the Government sanctioned 12 grant-in-aid posts to the 4th respondent school vide G.O.Ms.No.365, Education (PS-2), dated 10.10.1994, with monetary benefits from 01.09.1994. The 4th respondent had sent the names of the petitioners along with others for absorption into grant-in-aid posts. But initially, 4 candidates out of 12 were admitted into newly sanctioned grant-in-aid posts. Later, 8 posts including petitioners were absorbed into aided posts retrospectively from the date of their appointment on 27.12.1996. Thereafter, the petitioners were regularly paid salaries from the grant-in-aid fund. Though Management is liable to pay the salaries to the petitioners during the unaided period, they were not paid. But, the 4th respondent obtained signatures of the petitioners on the agreement promising to pay Rs.20,000/- each towards salaries from the date of sanction of aided posts till the date of approval of their appointments i.e. 01.09.1994 to 26.12.1996. However, the 4th respondent successfully got the arrears sanctioned in the name of petitioners and also Sri P.Lalith Kumar from 01.09.1994 to 26.12.1996. Even though Sri P.Lalith Kumar and Sri Sridhar, son-in-law and son of the Correspondent respectively, were never worked in the 4th respondent school, they received grant-in-aid. Then, the petitioners complained the said fact to the third respondent – the District Educational Officer, Warangal, stating that though Sri P.Lalith Kumar is working in a Government school, his salary is claimed in the 4th respondent school. Likewise, the salary of Sri Sridhar, son of Correspondent, is working in a private pharmaceutical industry, was also claimed. The 4th respondent-Management raised bills in respect of the salaries of Sri P.Lalith Kumar from 27.12.1996 to 30.09.1997 in November, 1997 and the amount was credited into the account of Sri P.Lalith Kumar vide Account No.754, Indian Overseas Bank, Sayampet Road Branch, Warangal, and the same was also withdrawn by Sri P.Lalith Kumar. Basing on the complaint of the petitioners, the third respondent sought explanation from the 4th respondent. The 4th respondent submitted explanation dated 12.08.1999 to the charges levelled that would show that the records were fabricated, and he also filed Writ Petition No.25686 of 1999, challenging the show-cause notice issued by the third respondent and the same was set aside on the ground that the District Educational Officer is not the competent authority. The 4th respondent also filed Writ Petition No.17379 of 1999 seeking reimbursement of salaries alleged to have been paid to the petitioners from September, 1994 till 26.12.1996, without making them as parties. The 4th respondent played fraud against the Department and produced fabricated report before this Court. This Court allowed the Writ Petition No.17379 of 1999 on 11.08.2000, directing respondents therein to release the amount of grant-in-aid for the posts held by the petitioners from 01.09.1994 to 26.12.1996. Accordingly, the amount of Rs.4,71,059/- was released to the 4th respondent and the same was recalled from the 4th respondent by Banker's cheque subject to the deduction to be made as per the order. The District Educational Officer, Warangal was further directed to return the amount of Rs.4,71,059/- which he received on 03.05.1999, as held by this Court in the order passed in W.P.No.17379 of 1999, through Banker's cheque from the 4th respondent-Management without effecting any deductions duly obtaining undertaking from the Correspondent that if any recovery is ordered in future in respect of teachers referred in the judgment will be effected in grant-in-aid bills and the same would be directly remitted in Treasury and send compliance report within 10 days to the Government. Immediately, after passing of the impugned order, the petitioners filed a review petition in W.P.No.17379 of 1999, but the same was closed giving liberty to the petitioners to challenge the impugned memo. Hence, the petitioners filed the present writ petition.

3. The third respondent filed two counters, out of them one was filed by Sri G.Madhusudhan, District Educational Officer, Warangal before this Court on 31.10.2001 and another was filed by Sri Ch. Ramana Kumar, District Educational Officer, Warangal before this Court on 22.02.2007, stating that the 4th respondent filed Writ Petition No.17379 of 1999 for reimbursement of the aided salaries. In view of the Contempt Case No.440 of 2001 in Writ Petition No.17379 of 1999, the salaries payable to the petitioners could not be reimbursed to the 4th respondent, unless it is established that the petitioners were paid salaries by the 4th respondent. Hence, the Government has issued the

impugned Memo No.22626/PS-1/99-5, dated 24.01.2001, as per the orders of this Court in Writ Petition No.17379 of 1999, dated 11.08.2000, directing the District Educational Officer, Warangal to return the amount of Rs.4,71,059/- which was received on 03.05.1999 by Banker's cheque from the 4th respondent-Management without effecting any deduction duly obtaining undertaking from the Correspondent.

4. The 4th respondent also filed counter denying the averments made in the writ affidavit. None appeared for the 4th respondent to put forth their contentions.

5. This Court granted interim order on 20.03.2001. As per the said interim order, the 3rd respondent has returned the said amount to the 4th respondent with an undertaking from the 4th respondent that he should keep the amount of Rs.4,71,059/- in a fixed deposit by opening a separate account and the same is subject to final outcome of the writ petition. Accordingly, an undertaking was obtained from the 4th respondent-Correspondent and issued Banker's cheque to the 4th respondent subject to the final orders to be passed in the writ petition.

6. Sri K.Jaganmohan Reddy, learned counsel for the petitioners, would contend that the petitioners worked as unaided teachers in the 4th respondent aided school. The Government sanctioned 12 grant-in-aid posts to the 4th respondent school vide G.O.Ms.No.365, dated 10.10.1994.

The 4th respondent had sent the names of the petitioners along with others for absorption into grant-in-aid posts. The petitioners were absorbed into grant-in-aid posts retrospectively from the date of their appointment on 27.12.1996 along with others. The petitioners were regularly paid salaries from grant-in-aid fund, but the Management had not paid the petitioners' salaries during the period from 01.09.1994 to 26.12.1996, even though the 4th respondent received the reimbursement of the salaries. The petitioners made a complaint to the third respondent stating that the Correspondent of the 4th respondent school illegally got reimbursement of the salaries to the posts hold by Sri P.Lalith Kumar and Sri Sridhar, son-in-law and son of the Correspondent of the school and they were received the salaries. Basing on the said complaint, the third respondent sought explanation of the 4th respondent. The 4th respondent submitted explanation to the charges levelled against him. The 4th respondent filed Writ Petition No.25686 of 1999 challenging the show-cause notice issued by the third respondent and the same was set aside on the ground that the District Educational Officer is not the competent authority. The 4th respondent also filed Writ Petition No.17379 of 1999, seeking reimbursement of salaries alleged to have been paid to the petitioners from September, 1994 to 26.12.1996, without making the petitioners as parties to the writ petition. The 4th respondent played fraud against the

Department and produced fabricated report before this Court. This Court allowed the Writ Petition No.17379 of 1999 on 11.08.2000, directing the respondents therein to release the amount of grant-in-aid for the posts held by the petitioners from 01.09.1994 to 26.12.1996. Accordingly, the amount of Rs.4,71,059/- was released to the 4th respondent and the same was recalled from the 4th respondent by Banker's cheque subject to the deduction to be made as per the order. The District Educational Officer, Warangal was further directed to return the amount of Rs.4,71,059/- which he received on 03.05.1999 by Banker's cheque from the 4th respondent-Management without effecting any deductions duly obtaining undertaking from the Correspondent. Immediately, after passing of the impugned order, the petitioner filed review petition in the Writ Petition No.17379/1999, but the same was closed giving liberty to the petitioners to challenge the impugned memo. Hence, it is prayed that the petitioners are entitled to receive the salary amount as reimbursed by the first respondent-Government for the period from 01.01.1994 to 26.12.1996.

7. Per contra, the learned Government Pleader appearing for the respondents 1 to 3 would contend that the 4th respondent filed Writ Petition No.17379 of 1999 for reimbursement of the salaries payable to the petitioners. The salaries could not be reimbursed unless it is established that the petitioners were paid salaries by the 4th respondent. As

per the orders of this Court in Writ Petition No.17379 of 1999 dated 11.08.2000, the Government has issued impugned memo dated 25.01.2001 directing the District Educational Officer, Warangal, to return the amount of Rs.4,71,059/- which was received on 03.05.2011 by Banker's cheque from the 4th respondent without effecting any deductions duly obtaining undertaking from the Correspondent. It is further submitted that being aggrieved by the impugned order, the petitioners filed the present writ petition and this Court on 20.03.2001, passed interim order. As per the interim order, the third respondent has returned the said amount to the 4th respondent with an undertaking from the 4th respondent that he should kept the amount of Rs.4,71,059/- in a fixed deposit by opening a separate account and the same is subjected to the final outcome of this writ petition.

8. In the facts and circumstances of the case and in considered view of this Court, it is found that originally the petitioners were appointed in unaided posts and thereafter the petitioners were absorbed in grant-in-aid posts with effect from 27.12.1996. This Court, by order dated 11.08.2000, allowed the Writ Petition No.17379 of 1999, directing the second respondent therein to release the salary amount to the 4th respondent. Accordingly, the amount of Rs.4,71,059/- was released to the 4th respondent and the same was recalled by Banker's cheque from the 4th respondent subjected to the deduction to be made as per the order. Accordingly, the

impugned order was issued directing the District Educational Officer, Warangal to return the amount of Rs.4,71,059/- which was received on 03.05.1999 by Banker's cheque from the 4th respondent without deductions duly obtaining undertaking from the 4th respondent that if any recovery is ordered in future in respect of the Teachers referred in the judgment, will be effected in grant-in-aid bills and the same will be directly remitted in the Treasury. Accordingly, by impugned order, amounts were released. But, however, in pursuance of the interim order passed in this writ petition, amounts were returned to the 4th respondent by duly undertaking that the amounts should be kept in fixed deposit. Now, the sanctioned amount towards petitioners' salary that was kept in the fixed deposit by the 4th respondent is subjected to further orders in the writ petition. Hence, the petitioners are entitled to receive salaries from 01.01.1994 to 27.12.1996 from the 4th respondent, as the 4th respondent was sanctioned revised pay scales of 1993 giving monetary benefit from 01.09.1994 by proceedings dated 27.03.1999 of the second respondent duly giving credit to the petitioners' unaided services. The amount of Rs.4,71,059/- now sanctioned relates to the petitioners' salaries for the period from 01.01.994 to 26.12.1996, but it appears that the petitioners received the then existing salaries from the 4th respondent as reported by the Auditor.

9. Accordingly, the Writ Petition is allowed, setting aside the Memo No.22626/PS.I/1999-5 dated 25.01.2001, directing the 3rd and 4th respondents to pay the salary amounts to the petitioners payable from 01.01.1994 to 26.12.1996 out of the sanctioned amount of Rs.4,71,059/- that was kept in the fixed deposit by the 4th respondent, after deducting the actual amount of salaries if any paid by the 4th respondent to the petitioners towards the salaries of corresponding period from 01.01.1994 to 26.12.1996. No order as to costs.

10. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE M.GANGA RAO

20-06-2018
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