

*** THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN**
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

+ WRIT PETITION No.24039 of 2018

% Dated: 13.07.2018

T.Rajithamma and others.

... Petitioners

VERSUS

\$ The State of Telangana,
Rep.by its Principal Secretary,
School Education Department,
Telangana Secretariat, Hyderabad,
And others.

... Respondents

! Counsel for the petitioners: Sri Srinivasa Rao Madiraju

^ Counsel for the respondents : GP for School Education

<GIST:

>HEAD NOTE:

? Cases referred



THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.24039 of 2018

ORDER: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

This Writ Petition is a follow up of the situation obtained through the judgment in W.P.No.19141 of 2018 and connections, which dealt with the challenge to the vires of G.O.Ms.No.16, dated 06.06.2018.

2. We have heard the learned Senior Counsel for the petitioners and the learned Additional Advocate General for the State of Telangana.

3. The impugned Government Order in G.O.Ms.No.17, dated 06.07.2018 (Ex.P.15) provides to make the Regional Joint Director of School Education concerned as the competent authority for issuing transfer and posting orders. An appeal is also provided from the decision of the Regional Joint Director of School Education to the Commissioner and Director of School Education. It is argued on behalf of the petitioners that the impugned G.O.Ms.No.17 is merely an executive instruction and it could not have been issued to occupy the field relating to transfer, because, in view of the afore-noted judgment, the earlier statutory rule no more holds good and, hence, the prior rule position which prevailed before G.O.Ms.No.16 came into force should be treated to have automatically resurrected.

4. For one thing, the situation in hand arises out of the reorganization of the erstwhile State of Andhra Pradesh into the State of Andhra Pradesh and the State of Telangana. The statutory rules having been held as invalid through the judgment noted above, there was sufficient room for executive action in terms of the Constitution

for the State Government to make such executive provisions as would not contradict any live statutory provision. What has been made through G.O.Ms.No.17, dated 06.07.2018, is to put the power and authority to transfer, to be with the Regional Joint Director concerned. That Government Order also provides for an appeal to the Commissioner and Director of School Education. It does not in any manner impinge any particular statutory provision or the Constitution.

5. The aforesaid apart, it needs to be emphasized that transfer is an incidence of service. It is not a condition of service. Obviously, therefore, no employee has a vested right to contend that any particular crystallized right as a condition of service is breached by the issuance of a regulatory provision which lays down the modality of management of transfers and postings.

6. We see no ground to interfere with the impugned decision. The Writ Petition fails.

In the result, the Writ Petition is dismissed.

The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

13.07.2018

Note: LR copy to be marked.

B/o.
vs/pln