

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos.26709 & 26769 of 2018

COMMON ORDER:

Since both these writ petitions are identical in nature, this Court deems it appropriate to dispose of the writ petitions by way of this common order.

2. According to the petitioners, they are non-Governmental Organisations and the State Government entrusted the management of Urban Health Centres to them. Earlier, when there was a proposal for withdrawal of non-Governmental Organisations, the petitioners herein filed W.P.Nos.12308 and 24178 of 2016 respectively before this Court and this Court on 13.4.2016 and 26.7.2016 in W.P.M.P.Nos.15447 and 2978 of 2016, granted interim orders. The said writ petitions are pending consideration before this Court, wherein the Government filed vacate applications.

3. The District Collector and Magistrate, Chairman, District Health Society, Wanaparthy issued notices to the petitioners herein, asking to explain as to why action should not be taken. In response to the said show cause notices, the petitioners herein submitted explanations/replies on 18.4.2018. By way of impugned orders dated 23.7.2018, the 5th respondent-District Collector terminated the services of the petitioners herein. The said orders are under challenge in these writ petitions.

4. Heard the learned counsel for the petitioners and the learned Government Pleader for Medical and Health, appearing for Respondents.

5. According to the learned counsel for the petitioners, the questioned action is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India. In elaboration, it is further submitted by the learned counsel for the petitioners that despite receipt of explanations/replies, the 5th respondent herein did not consider the contents of the same and the same cannot be approved.

6. On the other hand, the learned Government Pleader seeks to sustain the impugned termination orders by contending that there is no illegality nor there exists any procedural infirmity in the impugned action and only after issuing the show cause notices and calling for explanations, the 5th respondent passed the orders under challenge, as such, the same cannot be faulted.

7. There is absolutely no dispute with regard to reality that in response to the show cause notices issued by the 5th respondent, the petitioners herein submitted elaborate replies/explanations to the allegations levelled against them in the said show cause notices. A perusal of the orders under challenge, terminating the services of the petitioners, would make it clear that except referring to the replies submitted by the petitioners herein, there is absolutely no consideration of the contents of the replies/explanations submitted by the petitioners herein.

8. Having called for the explanations and having acknowledged the same, this Court does not find any justification on the part of the Respondents herein in not taking into consideration the contents of the explanations/replies while passing the orders. This action, in the considered opinion of this Court, cannot be approved and the matter requires reconsideration by the Respondents by considering the explanations/replies submitted by the petitioners herein.

9. For the aforesaid reasons, both the writ petitions are allowed, setting aside the termination orders vide proceedings Rc.No.1316/UPHCS/2018 dated 23.7.2018 issued by the 5th respondent. However, it is open for the Respondents to pass orders afresh after considering the contents of the explanations/replies submitted by the petitioners herein. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 20.12.2018
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