

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION (TR) No. 2564 OF 2017

ORDER:

Initially, petitioner filed O.A.No.4680 of 2014 before the Andhra Pradesh Administrative Tribunal (APAT) at Hyderabad. Subsequent to decision taken for abolition of APAT by the State of Telangana, the cases belong to the State of Telangana were transferred to the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh at Hyderabad. As such, the aforesaid OA No.4680 of 2014 was renumbered as Writ Petition (Transfer) No.2564 of 2017.

3. It is the case of the petitioner that in response to the Notification issued by the 3rd respondent, he applied for the post of Village Revenue Officer and obtained 5th rank in the written examination held on 02.02.2014. Thereafter, he was issued notice on 22.02.2014 for verification of original study certificates. That after verification of the original certificates, the 3rd respondent issued an endorsement in file No.A7/4314/2013, dated 26.02.2014 stating that petitioner's case cannot be considered for the purpose of filling up of the post of Village Revenue Officer as he belongs to Ranga Reddy District in terms of Circular issued by the Chief Commissioner of Land Administration vide Ref.No.A2/2059/2013, dated 26.12.2013. Aggrieved by the orders of the 3rd respondent, he made representation to the 2nd respondent on 07.06.2014 stating that he belongs to Mahabubnagar District and as per G.O.Ms.No.186

General Administration (SPF-A) Department, dated 18.03.1977 he comes under the definition of local candidate. As no orders are passed on the representation of the petitioner, present writ petition is filed.

2. Counter affidavit is filed by the 3rd respondent denying the allegations in the affidavit filed in support of the Writ Petition stating that the petitioner does not come within the meaning of local candidate as per the guidelines issued in Ref.No.A2/2059/2013, dated 26.12.2013 of the CCLA, A.P, Hyderabad. That the Government vide Memo No.48350/VA-1/2013, dated 26.12.2013 permitted the CCLA at Hyderabad to entrust the process of recruitment to the post of VROs and VRAs in Revenue Department to the APPSC for conducting examination. In pursuance to the above orders, the CCLA, A.P, Hyderabad vide reference No.A2/2059/2013, dated 26.12.2013 has framed guidelines and draft notification to fill up the vacancies of VROs and VRAs by direct recruitment. As per the guidelines, notification has been issued vide reference No.A7/4316/2013, dated 27.12.2013 clearly specifying that the applicant seeking appointment as VRO should be the native of the District. That though the petitioner is claiming to be the local candidate stating that he has studied more than 8 years in Mudvin and Revally Villages of Midjil Mandal and meets requirement of definition of local candidate as per Circular dated 26.12.2013 of CCLA, Hyderabad, the educational qualification for the post of VRO is 'Intermediate passed'. As regards to

nativity/local candidate in Appendix-II of the said notification, it is clearly mentioned that a candidate claiming to be the native, should reside in that local area for a period of not less than four years immediately preceding the date of commencement of qualifying examination in which he appeared or as the case may be first appeared. That in the instant case, the petitioner has passed Intermediate examination in September, 2000 from Ideal Junior College, Dilsukhnagar, Hyderabad and he has not resided in the native village/District for continuously four years preceding the date of commencement of qualifying examination i.e., Intermediate, as such, he cannot be deemed to be the local candidate. That as per G.O.Ms.No.186 G.A (SPF-A) Department, dated 18.03.1977, if a candidate has studied in Educational institutions in the State for a period of not less than seven consecutive academic years ending with academic year in which he appeared as the case may be first appeared for the relevant qualifying examination or matriculation whichever is lower, he shall be regarded as local candidate in relation to the local area where he has studied for maximum period within the said seven years in the event, if the period of study in two or more local area being equal he shall be regarded as a local candidate in relation to the local area where he studied last of equal periods. That the applicant has studied three and half years in Mahabubnagar District and one and half year in R.R.District excluding the 4th class i.e., from 4th class to 10th class, thus the applicant did not

meet the requirement of definition of local candidate and sought for dismissal of the Writ Petition.

3. Reply affidavit is filed by the petitioner denying the averments in the counter affidavit filed by the 3rd respondent stating that since there is an ambiguity with regard to the definition of 'Local Candidate' incorporated in the subject Notification, the CCLA-2nd respondent herein clarified the issue and sent Memo instructions to all the Collectors in the State vide Circular No.1-1/2014 in CCLA's Ref.No.A2/2059/2013, dated 04.01.2014; that the 3rd respondent without considering the provisions of G.O.Ms.Nos.674 and 186 has rejected the case of the petitioner and has issued the impugned endorsement dated 26.09.2014. That in pursuant to the representation of the petitioner date 10.03.2014, the 2nd respondent addressed letter to the 3rd respondent vide Ref.No.A2/455/2014, dated 18.03.2014 to take necessary action as per circular instructions issued vide CCLA's Ref.No.A2/2059/2013, dated 04.01.2014 as well as G.O.Ms.No.186, dated 18.03.1977, but the same has not been considered by the 3rd respondent. That the interpretation given to the period of stay of seven years treating the qualifying examination i.e., Intermediate is erroneous and against the provisions of G.O.Ms.No.674 General Administration (SPF) Department dated 20.10.1975.

4. Heard Party-in-Person and learned Assistant Government Pleader for Services (Revenue) for respondents 1 to 3.

5. Party-in-Person submits that since there is an ambiguity in the Notification, the 2nd respondent has given clarification with regard to 'local candidate' vide Circular No.1-1/2014 in Ref No.A2/2059/2013, dated 04.01.2014 requesting all the Collectors to direct the Help Desk In-Charges to go through these Government Orders i.e., G.O.ms.No.674 General Administration (SPF) Department dated 20.10.1975 and G.O.Ms.No.186 G.A(SPF-A) Department dated 18.03.1977 and to give clarifications to the aspiring candidates on the issue of local candidate, but the 3rd respondent without considering the same issued impugned order, which is erroneous. He submits that though the 2nd respondent requested 3rd respondent to consider his case and take up further action as per Circular instructions dated 04.01.2014, no action is being taken by the 3rd respondent. He submits that the 3rd respondent erroneously interpreted the period of stay of seven years treating the qualifying examination i.e., Intermediate, which is against the provisions of the Presidential order under G.O.Ms.No.674, GA (SPF) Department dated 20.10.1975. He submits that the respondents instead of taking the matriculation as qualifying examination has taken Intermediate as qualifying examination, which is erroneous. He also submits that he has undergone private studies in his native village from classes 1 to 4 from the year 1988 to 1992. Since the school in which he studied was closed, the same was certified by the Mandal Educational Officer. He submits that if matriculation is taken as a qualifying

examination, petitioner becomes 'local candidate' of Mahabubnagar District.

6. On the other hand, learned Assistant Government Pleader for Services (Revenue) submits that Presidential Order has no application to the petitioner since the petitioner passed Intermediate Examination in September, 2000 at Hyderabad, as such, he does not fit into the category of 'local candidate' of Mahabubnagar District. She submits that even as per the guidelines issued in Ref.No.A2/2059/2013, dated 26.12.2013 of the 2nd respondent, the petitioner does not come under the category of 'local candidate'. He submits that the petitioner has not resided continuously for a period of four years preceding the date of qualifying examination i.e., Intermediate examination in Mahabubnagar District, as such, he does not come within the meaning of a 'local candidate'.

7. In this case, it is to be seen that the petitioner has undergone private study in his native village from 1988 to 1992 for the Classes I to IV and Certificate dated 12.12.2011 was issued by the Mandal Educational Officer, Midjil, Mahabubnagar to that effect. Petitioner also filed declaration dated 25.02.2014 stating that he has undergone private study from 1988 to 1992 in his native village i.e., Revally, Midjil, Mahabubnagar and same is attested by the Mandal Educational Officer, (MRC) M.P., Midjil. Petitioner has studied V class during the academic year 1992-1993 in Primary School, Revally, which is evident by the Bonafide & Conduct certificate dated 08.07.1992. Petitioner has

studied VI to VIII during 1993-1995 in Mudhiven, Mahabubnagar District, which is evident from the Bonafide Certificate, dated 26.10.2006. Therefore, it is clear that the petitioner has studied more than eight years in Mahabubnagar District.

8. Learned Assistant Government Pleader for Services submits that the petitioner does not come within the meaning of 'local candidate' as per guidelines of the Government dated 26.12.2013. When doubts were expressed with regard to nativity issues in case of appointments to V.R.O post, the Chief Commissioner of Land Administration-2nd respondent has issued clarification vide Circular No.1-1/2014 in Ref.No.A2/2059/2013, dated 04.01.2014 (Annexure-I), wherein it is clarified with regard to the definition of 'local candidate', which reads as follows:

"The attention of the Collectors in the State is invited to the subject and reference cited, wherein the aspiring candidates/Help Desk Incharges of various districts are asking clarifications mainly on the Nativity issues in case of V.R.O.

With regard to Nativity/local status of VRO is concerned, instructions have been already issued in Circular No.1 cited.

However, it is reiterated that the Government in G.O.Ms.No.674, General Administration (SPF) Department, dated 20.10.1975 have issued orders about the Local candidate/Local area. Further, the Government have also issued G.O.Ms.No.186, G.A(SPF-A) Department, dated 18.03.1977 reiterated the instructions along with illustrated with examples.

A copy of the G.O.Ms.No.674 and G.O.Ms.No.186 are sent herewith. All the Collectors are requested to direct the Help Desk Incharges to go through these Government Orders and give clarifications to the aspiring candidates on this issue."

A plain reading of aforesaid letter dated 04.01.2014 goes to show that the of CCLA-2nd respondent has clarified that instructions have already been issued with regard to Nativity/local status of VRO vide Ref.No.A2/2059/2013, dated 26.12.2013 (Circular No.1). That apart, he also reiterated about orders issued by the Government vide G.O.Ms.No.674, GA (SPF)

Department dated 20.10.1975 and also G.O.Ms.No.186 G.A (SPF-A) Department dated 18.03.1977 in the matter of local candidate/local area are to be followed. When the 2nd respondent has given clarification to the 3rd respondent to follow the aforesaid Government Orders while considering the cases for the post of VROs on the issues of local candidate/local area, therefore, the contention of the learned Assistant Government Pleader that the petitioner does not come within the meaning of 'local candidate' cannot be accepted.

9. That apart, when the case of the petitioner for the post of Village Revenue Officer was rejected by the 3rd respondent vide Endorsement No.A7/4314/2013, dated 26.02.2014, on the ground that he belongs to Ranga Reddy District, the petitioner made representation to the 2nd respondent on 10.03.2014. Thereafter, the 2nd respondent addressed letter vide Ref.No.A2/455/2014, dated 18.03.2014 to the 3rd respondent stating as follows:

"The attention of the Collector, Mahabubnagar District is invited to the reference 1st cited wherein Sri G.Praveen Kumar S/o.Ram Reddy R/o.Mahabubnagar has submitted a representation stating that his candidature as Local of Mahabubnagar District is not being considered in violation of G.O.Ms.No.186, dated 18.03.1977 and only following the Notification issued for appointment of VROs. Therefore, a copy of the representation received vide reference cited is sent to the Collector, Mahabubnagar with a request to take necessary action as per the circular instructions issued vide CCLA's Ref.No.A2/2059/2013, dated 04.01.2014, (i.e., Circular No.1-1/2014) and as per G.O.Ms.No.186, dated 18.03.1977. copies of the same are enclosed."

A perusal of the aforesaid letter, it is clear that on both the occasion, the Chief Commissioner of Land Administration has requested the Chairman & Collector-3rd respondent to follow

G.O.Ms.No.186, dated 18.03.1977. Even after addressing such letter by the 2nd respondent, no action is being taken by the 3rd respondent for considering the case of the petitioner in terms of G.O.Ms.No.186, dated 18.03.1977. Though in the Notification dated 27.12.2013 as well as in the counter affidavit of the 3rd respondent, it is stated that the Presidential Order has no application to the post of VRO, but the 2nd respondent-CCLA has reiterated on both occasions in his letters addressed to the 3rd respondent-District Collector, to follow G.O.Ms.No.186 GA (SPF-A) Department dated 18.03.1977, but the 3rd respondent ignored the said proceedings. In the said Government Order, the definition of local candidate is as follows:

“2. Paragraph 2, the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Amendment Order, 1977 inserts a new sub-paragraph Viz., Sub-paragraph (2) to paragraph 7 making provision for considering the claims of persons who, in terms of the existing definition [under para 7 now renumbered as sub-para (1) thereof] become non-local to all local areas in the State. According to sub-para (2) (a)(i) of Paragraph 7 if such a candidate had studied in educational institutions in the State for a period of not less than 7 consecutive academic years ending with the academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination or matriculation examination whichever is lower, he shall be regarded as a local candidate in relation to that the local area where he has studied for the maximum period within the said seen years. In the event of period of study in two or more local areas being equal, he shall be regarded as a local candidate in relation to that local area where he has studied last of such equal periods.”

As already stated supra, the petitioner has studied from I to VIII in Mahabubnagar District, as such, in view of aforesaid definition in G.O.Ms.No.186, the petitioner comes under the ‘local candidate’ of Mahabubnagar District, as relevant qualifying examination has to be treated as SSC, in view of sub-clause (b)

(ii) of Clause 7 of Presidential order contained in G.O.Ms.No.674, GA (SPF) Department dated 20.10.1975.

10. Except stating in the counter affidavit of the 3rd respondent that the Presidential Order is not applicable to the post of VRO, no reasons are forthcoming from the respondents. On the other hand, the 2nd respondent-CCLA, being the Superior of the 3rd respondent has issued instructions/clarifications on the issue of 'local candidate' vide Circulars dated 04.01.2014 and 18.03.2014 stating that in case of doubts, one has to refer G.O.Ms.Nos. 674, G.A (SPF) Department dated 20.10.1975 and also G.O.ms.No.186 G.A (SPF-A) Department dated 18.03.1977, but the 3rd respondent has not followed the same. In the affidavit filed in support of the Writ Petition, it is clearly stated by the petitioner that he has studied from I to VIII class in Mahabubnagar District and that he also filed bonafide certificates as well as Certificate issued by the Mandal Educational Officer, Midjil, Mahabubnagar District., to that effect, the same is not disputed in the counter. Even the definition of 'local candidate' as per G.O.Ms.No.186, dated 18.03.1977 was relied on in the counter affidavit filed by the 3rd respondent. Therefore, it is to be taken that the petitioner has studied from I to VIII in Mahabubnagar District and is local candidate in Mahabubnagar District. Therefore, the action of the 3rd respondent in rejecting the case of the petitioner for appointment to the post of Village Revenue Officer on the ground that he belongs to Ranga Reddy District, is erroneous.

In view of above facts and circumstances, the impugned endorsement No.A7/4314/2013, dated 26.02.2014 issued by the 3rd respondent is set aside and the respondents are directed to consider the case of the petitioner for appointment as Village Revenue Officer in accordance with the Rules, treating the petitioner as local candidate of Mahabubnagar District.

Accordingly, this Writ Petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

12-06-2018.
kvs

A.RAJASHEKER REDDY, J



HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION (TR) No. 2564 OF 2017



Date: 12.06.2018.

kvs