

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.A. No. 1049 of 2018

JUDGMENT:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ appeal is preferred against the order dated 18.06.2018 in I.A.No. 1 of 2017 (W.V.M.P.No. 4714 of 2017) in W.P.M.P. No. 23744 of 2017 in W.P.No. 19492 of 2017 passed by this Court, whereby the application filed by the appellant, has been dismissed.

The appeal has been preferred on the ground that the learned Single Judge of this Court has not appreciated the facts in their true perspective that the writ petitioners / respondent Nos.1 and 2 herein were engaged purely on temporary basis on payment of nominal consideration through outsourced agency, hence, the engagement was purely contractual in nature where the engagement was terminable by giving one month's notice.

The learned counsel for the appellant submits that the learned Single Judge of this Court has not appreciated the question of fact in its true perspective and the writ petition is filed seeking the main relief only against the Government of Telangana for not entertaining their application for regularization under G.O.Ms.No. 16, Finance (HRM.I) Department, dated 26.02.2016 and in terms of Finance

Department Circular Memo No. 308-A/ 51/ A3/ HRM-I/ 2014, dated 26.02.2016 and the writ petitioners never claimed any direct regularization.

To buttress his contention, the learned counsel for the appellant has relied upon the judgment of the Supreme court in Pradeep Kumar Biswas v. Indian Institute of Chemical Biology¹ and argued that since the appellant has been registered under the Societies Registration Act, 1960 and is purely a private institution, it does not come under the purview of Article 12 of the Constitution of India.

It is undisputed that the writ petitioners / respondent Nos.1 and 2 herein have been working with the appellant for the last ten years and till date their services have not been regularized. Therefore, the State Government issued orders in G.O.Ms.No. 16, Finance (HRM.I) Department, dated 26.02.2016 for regularization of persons who have put in substantial experience in their services and not yet regularized.

The learned counsel for the appellant has admitted the fact that the society is taking grant-in-aid from the State Government and the Central Government and the governing body of the institution consists of official members however some are non-official members.

¹ (2002) 5 Supreme Court Cases 111

Since the appellant – institution is getting the grant-in-aid from the State and Central Governments and governed by the official respondents, by any stretch of imagination, it cannot be held that it is purely a private and autonomous institution and does not fall under the purview of Article 12 of the Constitution of India.

Moreover, the fact remains that vide letter dated 10.08.2017, the request of the appellant was rejected by the Government of Telangana, and vide Memo dated 28.07.2017, the Government of Telangana directed the appellant to take action in consultation with legal counsel to remove unauthorizedly appointed/engaged persons, if any, without authority or approval of the competent authority in the matter. Hence, the State Government has control over the institution.

Since the appellant is against the interim order and the writ petition is pending adjudication before the learned Single Judge, we find no ground to interfere with the impugned order dated 18.06.2018 passed by the learned Single Judge.

The writ appeal is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

03.08.2018

SURESH KUMAR KAIT, J

bcj

ABHINAND KUMAR SHAVILI, J