

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.1143 OF 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The appellants are third parties to W.P.No.7313 of 2018 filed before this Court by the first respondent herein. However, by virtue of the interim order dated 20.04.2018 passed in the said writ petition, they are adversely affected. They were accordingly granted leave to file this appeal.

The first respondent-writ petitioner filed the aforestated writ petition assailing the action of the Ideal College of Arts and Sciences, Kakinada, East Godavari District, the fourth respondent herein, in not selecting her for the post of Attender, despite her being eligible in all respects and securing the highest marks. By way of her interim prayer in the writ petition, she prayed for a direction to the authorities to keep in abeyance the list of candidates sent by the fourth respondent college to the State authorities.

Significantly, at the time of filing of the writ petition along with the interlocutory application therein with the aforestated prayer, the first respondent-writ petitioner did not think it necessary to implead the candidates whose names found mention in the list of candidates sent by the fourth respondent college. However, losing sight of this crucial aspect, a learned Judge of this Court granted an interim order as prayed for on 20.04.2018 only on the ground that though notice was served, the fourth respondent college did not put in its appearance. Unfortunately, the learned Judge did not take note of the fact that those who were vitally affected by the grant of the said interim order were not even made parties to the writ petition.

Sri Chenchu Ramaiah, learned counsel for the first respondent-writ petitioner, would now inform this Court that an implead petition has been filed in the writ petition seeking to bring on record the affected candidates. This step ought to have been taken in the first instance before securing an interim order and the belated attempt to do so clearly reflects on the lack of *bonafides* on the part of the first respondent-writ petitioner.

Sri A.Satya Prasad, learned senior counsel appearing for Sri Prakash Buddarapu, learned counsel for the appellants, would further state that the first and second appellants secured more marks than the first respondent-writ petitioner but, despite the same, she chose to file the writ petition and secured an interim order behind their back, which completely stalled the appointment process.

As it is now stated that the first respondent-writ petitioner has initiated steps to implead the affected candidates in her writ petition, we are not inclined to go into the merits of the matter. However, as the interim order was secured by the first respondent-writ petitioner without even impleading the parties who were affected thereby, the order cannot be sustained on that short ground.

The writ appeal is accordingly allowed setting aside the order dated 20.04.2018 passed in I.A.No.1 of 2018 in W.P.No.7313 of 2018. The learned Judge may consider the interim prayer in the said I.A. after impleadment of the affected parties and after affording them an opportunity of hearing.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J