

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B.RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL No.1454 of 2018

JUDGMENT : (ORAL) *(Per Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr. Vedula Venkata Ramana, learned Senior Counsel for appellant, Mr.B.Nalin Kumar for respondents 1 and 2 and learned Government Pleader for Education.

2. 7th respondent in writ petition No.38056 of 2016 is the appellant. The 7th respondent in the instant appeal challenges the order dated 01.10.2018. The 1st and 2nd respondents herein filed writ petition challenging proceedings No.1184/A6/Corr/2015, dated 29.09.2016 taking note of change of Correspondentship, as contrary to Section 24 of A.P. Education Act, 1962 and unconstitutional. The 4th respondent, through proceedings dated 29.09.2016, in purported exercise of the power under Section 24 (2) of A.P. Education Act r/w. G.O.Ms.No.74/Edn.(Rules) Department, dated 27.02.1989 and G.O.Ms.No.14/Edn., dated 24.02.2006, noted the change of Correspondentship of Asafia Primary and High School, Malakpet in favour of Shah Mohammed Sayeeduddin/appellant. The 1st and 2nd respondents assailed the change noted through communication dated 29.09.2016 as violative of principles of natural justice and illegal. One of the grounds is that respondent

Nos.1 and 2 herein were not put on notice before accepting the change suggested by appellant/6th respondent. The learned Judge accepted the plea of respondent Nos.1 and 2 and held that without notice to respondent Nos.1 and 2 herein, the change of Correspondentship ought not to have been noted. In this background, Mr.Vedula Venkata Ramana contends that the learned Judge, if was satisfied that respondent Nos.1 and 2 ought to have been put on notice and also heard in the inquiry undertaken on the application made by appellant for noting the change of Correspondentship, the proceedings dated 29.09.2016 ought not to have been set aside in its entirety for violation of principles of natural justice does not render the change untenable on merits. According to him, the consideration by learned Single Judge of other grounds is academic, for the 4th respondent herein at best, could be directed to reconsider the issue of change of Correspondentship, hear all the parties and pass orders as are appropriate and correct in the circumstances of the case. He further contends that now, the proceedings impugned in the writ appeal are set aside, Asafia Primary and High School since is receiving Grant-in-Aid, is required to have a Correspondent, through whom, the authorities under Education Act deliberate on all the issues concerning the subject school. According to him, now there is no Correspondent to Asafia Primary and High School.

3. Mr.B.Nalin Kumar, referring to orders of Wakf Tribunal and this Court in C.R.P.No.3497 of 2014, submits that on merits, 4th respondent ought not to have noted appellant as Correspondent of Asafia Primary and High School. There is injunction operating against the appellant herein and the Wakf Board. He places strong reliance on the findings recorded in the order under appeal, prays for dismissing the appeal, or alternatively submits that this Court, if is of the view that the matter needs to be remitted to 4th respondent for consideration, the inquiry in this behalf may be directed to be disposed of within reasonable time.

4. We have perused the record and particularly the findings recorded in the order under appeal. We are of the view that the first and foremost ground of challenge to proceedings dated 29.09.2016 is violation of principles of natural justice and that respondent Nos.1 and 2 herein are necessary parties to the consideration of change of Correspondentship, who ought to have been put on notice by respondent No.4. The proceedings dated 29.09.2016 ought to have been set aside and matter remitted to 4th respondent for consideration and disposal afresh. The reference to merits by us while remanding the case to 4th respondent would certainly prejudice the case of one or the other party. Therefore, in the aforementioned

circumstances, we are of the view that the order under appeal needs to be modified as follows;

- (i) Proceedings dated 29.09.2016 are set aside. To that extent, the order under appeal is confirmed.
- (ii) The proceedings dated 29.09.2016 are set aside on the short ground that the proceedings are issued without notice to respondent Nos.1 and 2 herein, therefore, for consideration and disposal in accordance with law matter remitted to 4th respondent.
- (iii) After remand, 4th respondent issues notices to respondent Nos.1 and 2 herein and passes orders within three months from the date of receipt of copy of this order.
- (iv) The appellant as well as respondent Nos.1 and 2 are given liberty to file copy of this order before 4th respondent for expeditious consideration and disposal.

5. The appeal is ordered as indicated above. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

1st November, 2018
ajr