

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.39124 of 2018

O R D E R:

This Writ Petition is filed assailing the order dt.08.10.2018 of the 2nd respondent rejecting petitioner's appeal against the order dt.08.07.2018 passed by the 1st respondent transferring and posting the petitioner at Government High School, Nellikuduru.

2. It is the petitioner's case that he suffered a neuro surgery at MGM Hospital, Warangal and this fact was submitted to the 3rd respondent, who in turn got genuineness of the certificates submitted by the petitioner certified by the Superintendent of MGM Hospital on 24.06.2018 and the Regional Medical Board of MGM Hospital stated that the certificate was genuine.

3. Petitioner contends that as per G.O.Ms.No.16 dt.06.06.2018 Neuro Surgery comes under preferential category as per Rule 8(d)(iii) and ignoring petitioner's preferential category, the 3rd respondent posted the petitioner at Government High School, Nellikuduru; and when the petitioner preferred an appeal, it was rejected by the 2nd respondent on the ground that petitioner did not submit certificate issued by the District Medical Board.

4. Counsel for petitioner contends that when the District Educational Officer, Warangal (3rd respondent) himself had addressed the Superintendent of MGM Hospital on 24.06.2018 and the Medical Board of the said Hospital had issued certificate stating that the certificates produced by the petitioner are genuine and these are within the knowledge of the respondents, the 2nd respondent could not have rejected the appeal of the petitioner saying that the petitioner did not submit the documents.

5. The Government Pleader for Services-II is unable to show how such a conclusion can be arrived at by the 2nd respondent in the light of the letter dt.24.06.2018 addressed by the 3rd respondent to the Superintendent, MGM Hospital and the Medical Certificate issued by the Medical Board of the said Hospital.

6. It is obviously a case of deliberate non-application of mind by the 2nd respondent.

7. Therefore, the Writ Petition is allowed with costs of Rs.10,000/- to be paid by the 2nd respondent to the petitioner; and the respondents are directed to treat the petitioner as falling within the preferential category, since he had undergone Neuro Surgery as per G.O.Ms.No.16 dt.06.06.2018; and issue appropriate orders for posting of the petitioner. This exercise shall be completed within a period

of four (4) weeks from the date of receipt of a copy of this order.

8. The 4th respondent is directed to take into account this conduct of the 2nd respondent and if necessary, initiate disciplinary action against the 2nd respondent for his malafide action in the instant case

9. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

31st October, 2018.

Note: Registry to communicate copy of this order to the 4th respondent.

B/o
gra

