

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT APPEAL No.1918 OF 2017

JUDGMENT: (per Hon'ble Sri Justice Abhinand Kumar Shavili)

1. This writ appeal is filed challenging the order dated 12.9.2016 in W.P No.10066 of 2015, whereby the writ petition filed by the appellants herein has been dismissed by the learned single Judge of this Court.

2. Heard Sri V.S.R. Anjaneyulu, learned Counsel for the appellants and the learned Government Pleader for Education(A.P.).

3. Brief facts of the case are as follows:

(i) The 2nd respondent vide notification dated 6.2.2012 invited applications through online for recruitment of three categories of posts i.e., Principal (163 posts), Post-graduate teachers (PGT) (2119 posts) and Trained Graduate teachers (TGT) (978 posts) for 163 model schools. As per the notification, the candidates must have studied in English Medium at any three levels i.e., at school/junior college/degree college/post graduation for the post of Principal and at two levels for the post of PGT and TGT, except for the post of PGT (Telugu) and TGT (Hindi).

(ii) Several writ petitions were filed challenging the notification in respect of determination of the qualifications requiring the incumbents to have studied in English Medium in respect of the posts of Principal/PGT/TGT. Vide order dated 21.3.2012 in W.P.M.P.No.9023 of 2012 in W.P.No.7140 of 2012 and batch, the learned single Judge directed to receive the applications of the petitioners therein and process the same and if their applications are in order, allow them to write the examinations and to allow them to appear for interview, if they qualify in written test. Aggrieved by the said order, some of the respondents therein filed appeal and a Division Bench of this Court set aside the interim order passed in W.P.No.7140 of 2012 insofar as it directs the appellants therein to the extent that the qualified candidates be allowed to appear for interview. Ultimately, W.P.No.7140 of 2012 along with batch of writ petitions was dismissed and aggrieved by the order of the learned single Judge, the candidates belonging to the category of Principal and PGT filed appeals in WA Nos.610, 611 and 612 of 2012. The said appeals were also dismissed by judgment dated 4.1.2013. Challenging the said judgment, the Principals and PGTs approached the Hon'ble Supreme Court by filing SLP (Civil) No.14955 and 19220 of 2013 and the Hon'ble Supreme Court passed interim order on 30.9.2013 leaving it open to the State Government to prepare a common list of the candidates

who have studied either through Telugu medium or English medium depending upon the marks they secured and proceed to effect appointments, subject to final outcome of the appeal. The Apex Court further held that the said interim order will be applicable for the posts of Principals and the Post Graduate Teachers.

(iii) Meanwhile, in pursuance of the interlocutory order passed in W.P.No.7140 of 2012, the appellants appeared for the selection process. But the appointment orders were not given to them though the entire process of selection was completed and appointment orders were made ready. The appellants being the incumbents of TGT posts filed the present writ petition viz., W.P.No.10066 of 2015 seeking a direction to the respondents in not issuing the appointment orders for the post of TGTs without extending the benefit of the interim order passed by the Apex Court. The learned single Judge dismissed the writ petition. Aggrieved by the same, the present writ appeal has been filed.

(iv) It is the grievance of the appellants that they appeared before the official respondents and submitted their original certificates for verification and no objection was raised by the official respondents. The appellants gave web options for posting places and while so, the official respondents issued proceedings dated 31.3.2015 stating that 54 appointment orders to TGTs were

down loaded and 36 appointment orders were issued to the candidates on 30.3.2015 after duly verifying all the original certificates and six appointment orders are not issued on certain objections. The names of the appellants were mentioned in the said proceedings. Hence, they filed W.P.No.10066 of 2015.

4. Learned Counsel for the appellants submits that the Apex Court vide order dated 16.3.2018 made the interim order dated 30.9.2013 absolute and that the learned single Judge ought to have extended the benefit of the order dated 30.9.2013 passed by the Apex Court in SLP (Civil) as the notification is a common notification for all the three categories of posts viz., Principal, PGT and TGT. He further submits that the learned single Judge ought not to have been influenced by the representation made on behalf of the State to the effect that they have not issued appointment orders to the candidates, who have not studied in English Medium at two levels in respect of the subject category. He submits that the learned single Judge committed error in finding that the appellants should comply with the requirements in the notification at two levels, and no exemption can be granted from such requirement.

5. The learned Government Pleader for Education submits that the appellants have not studied in English Medium at two levels and therefore, their cases were not considered and that the official

respondents gave appointment orders to those who did not study in English medium at two levels and that the interim order of the Apex Court dated 30.9.2013 is applicable only to the case of PGTs and Principals and therefore, it cannot be extended to the TGTs, who did not study in English medium, and that the order of the learned single Judge does not warrant any inference.

6. We have considered the rival submissions made by the parties and perused the material available on record.

7. From the material on record, it is obvious that the appellants and others have challenged the notification dated 6.2.2012 by filing a batch of writ petitions i.e., W.P.No.7140 of 2012 and batch, and the learned single Judge of this Court vide order dated 21.3.2012 granted interim direction to the respondents therein to receive the applications of the petitioners therein and process the same and if their applications are in order, allow them to write the examinations and to allow them to appear for interview, if they qualify in written test. In pursuance of the said interlocutory orders, the appellants have appeared for the selection process. Finally, the writ appeals preferred against the said interlocutory order passed by the learned single Judge i.e., W.A.No.366 of 2012 was disposed of vide order dated 28.3.2012 setting aside the interim order passed by the learned single Judge insofar as it directs the appellants therein to the

extent that the qualified candidates be allowed to appear for interview. Thereafter, the writ petitions filed by various candidates challenging the notification dated 6.2.2012 were dismissed on 9.5.2012. Aggrieved by the order of dismissal, the petitioners therein belonging two categories viz., Principal and PGT preferred writ appeals i.e., W.A.No.610, 611 and 612 of 2012 and the said writ appeals were dismissed by order dated 4.1.2013. Thereafter, the Principals and PGTs have carried the matter in appeal by filing SLP No.14955 and 19220 of 2013 before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to grant interim direction on 30.9.2013 as follows:

“It will be open to the State Government to prepare a common list of the candidates who have studied either through Telugu medium or English medium depending upon the marks they secured and proceed to effect appointments. The appointment will be subject to final outcome of the appeal. This order will be applicable for the posts of Principals and the Post Graduate Teachers.”

8. While so, the appellants herein were permitted to appear for selection process in pursuance of the interlocutory order dated 21.3.2012 passed in W.P.No.7140 of 2012 and batch. However, the learned Government Pleader contended that the appellants have suppressed the fact that they have not studied in English medium at two levels of their education and they have uploaded their application by suppressing that fact, and by deceitful means they had appeared for examinations. The appellants have explained their

conduct in paragrapahs Nos.5, 6 and 7 of their writ affidavit under what circumstances they had to upload their application forms through online. When the appellants cases were not considered, they have filed W.P.No.10066 of 2015 and this Court vide order dated 8.4.2015 admitted the writ petition and passed the following order:

“On 30.09.2013, the Supreme Court in Special Leave to Appeal (Civil) No.14955 of 2013, while granting leave to the petitioners therein to appeal against the judgment rendered on 04.01.2013 in W.A.No.611 of 2012 by this Court, passed the following order:

“The operation of the judgment under challenge shall remain stayed.

It will be open to the State government to prepare a common list of the candidates who have studied either through Telugu Medium or English Medium depending upon the marks they secured and proceed to effect appointments.

The appointments will be subject to the final outcome of the appeal. This order will be applicable for the posts of Principals and the post-graduate teachers.

Hearing expedited.”

The order of the Supreme Court is very clear in that the State Government shall prepare a common list of the candidates, who have studied either through Telugu Medium or English Medium depending upon the marks they have secured and proceed to effect appointments. Therefore, the common merit ranking of the candidates, irrespective of the fact whether they have studied either in Telugu Medium or in English medium is what is relevant to be taken note of and into account while making appointments. Now the Regional Joint Director of Higher Education in his proceedings, dated 31.03.2015, addressed to the Director, sought for clarification as to whether the petitioners herein should be appointed as he is not very clear as to whether they have studied in English Medium or not.

The query raised by the Regional joint Director of School Education, Guntur is totally unwarranted in the face of the orders passed by the Supreme Court, referred to supra.

Therefore, the 2nd respondent Commissioner and Director of School Education is immediately directed to ensure that the Regional Joint Director of School Education, Guntur or for that matter, any other Regional Joint Director or any of the District Educational Officers, who are subordinate and administratively under his control, will not delay and deny appointments to the selected candidates, based upon their overall merit, irrespective of the fact whether they have studied the course in English Medium or Telugu Medium and necessary instructions in that regard be furnished within a period of 7 days from the date of receipt of a copy of this order.

Notice.”

9. Ultimately, the learned single Judge dismissed W.P.No.10066 of 2015 filed by the appellants herein on the ground that the notification clearly specifies that the candidate should necessarily produce certificates of having studied in English medium at two levels in case of all posts except PGT (English) and at three levels in case of TGT (English), and it was also clarified that the candidates belonging PGT (Telugu), TGT (English) and TGT (Hindi) need not submit medium of certificate of services. Further, the learned single Judge observed that since the appellants had not complied with the requirement of studying English medium at two levels, they cannot be granted any exemption contrary to the notification.

10. After considering the above circumstances and perusing the material on record, this Court is of the view that the learned single Judge has failed to appreciate that similar condition of medium of instruction stipulated in respect of Principal and PGT posts in the very same notification was interpreted by the Hon'ble Supreme

Court in SLP, and vide final order dated 16.3.2018 the Hon'ble Supreme Court disposed of the SLP with the following direction:

“In view of the order dated 30.9.2013, which is made absolute, Civil Appeal No.9104 of 2013 is also disposed of making it clear that as far as appointment to the post of Principal and Post Graduate Teachers are concerned, it will be open to the State Government to make the appointment on the basis of merit, irrespective of the medium of instruction.”

11. Perusal of the order of the Hon'ble Supreme Court would indicate that the condition stipulated in the notification dated 6.2.2012 with regard to studying of English medium was relaxed in respect of posts of Principal and PGTs. When such condition was relaxed in pursuance of the order of the Hon'ble Supreme Court in respect of Principal and PGTs, there is no justification on the part of the official respondents in denying such exemption or relaxation in respect of post of TGTs, which are lower in rank and which are notified in the very same notification dated 6.2.2012. We do not find any reason as to why such exemption cannot be given to TGTs. Therefore, this Court is of the considered view that the condition of medium of instruction stipulated in respect of posts of TGTs can be relaxed.

12. Accordingly, the Writ Appeal is allowed setting aside the order dated 12.9.2016 passed by the learned single Judge in W.P.No.10066 of 2015 insofar as the appellants are concerned.

The official respondents are directed to consider the case of the appellants for appointment to the post of TGTs as per their merit without insisting the study of medium of instruction in English at any two levels in their academic career. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 17.7.2018
Nn.



**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
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WRIT APPEAL No.1918 OF 2017

(Judgment delivered by AKS,J)



17/07/2018

Nn.

