

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

CONTEMPT CASE .NO. 2603 OF 2017

ORDER:

1. This Contempt Case is filed alleging non implementation of the order in WP.No.37349 of 2017 dated 16.11.2017. The said Writ Petition was disposed of along with four other Writ Petitions on 16.11.2017.

2. The petitioner was working as an Agricultural Extension Officer and he would be eligible for promotion to the post of Agricultural Officer if he possess a Degree in Agriculture. But he joined the service without having such a Degree and the Government, as a matter of policy, provided 5% reservation of seats available in Professor Jayashanker Telangana State Agricultural University for in-service candidates. He filed the Writ Petition challenging the action of the University in not giving admissions to the nominated in-service candidates like him for studying B.Sc., (Agriculture) for the academic year 2017-2018 in spite of sponsoring the candidates by letter dated 27.9.2017 by the Commissioner and Director of Agriculture, Government of Telangana, Hyderabad.

3. The 3rd respondent issued a Notification inviting applications from the eligible candidates for admission to B.Sc., (Hons/Ag) for the academic year 2017-2018. The admission was made open to the regular students as well as to in-service candidates. 19 seats were meant for in-service candidates. The last date prescribed for admission was 31.10.2017. The Registrar of the University addressed a letter on 31.7.2017 to the Commissioner seeking nominations of the candidates of the University against 5% reserved seats i.e., 19 seats. In his letter, he stipulated the criteria as a pass in Intermediate examination conducted by the Board of Intermediate Education of Andhra Pradesh and Telangana or its equivalent examination with any two of the following subjects (or) Diploma in Agriculture:

- 1) Physical Sciences
- 2) Biological Sciences (or) Natural Sciences
- 3) Agricultural Sciences

4. It was also stipulated that the candidates must have completed three years of service and must be less than 45 years of age as on 1.7.2017. There were other conditions also stipulated in the said communication. After receipt of the said letter, the Commissioner invited nominations in a prescribed proforma on or before 11.8.2017 by communicating a copy of

the memo to all the erstwhile District Agriculture Officers in the State. This was followed by another memo dated 22.8.2017. At that stage, a representation was made to the Registrar by some candidates stating that the Commissioner was sponsoring the candidates by taking only seniority into consideration without considering the merit. However, the Commissioner ultimately sent a list to the University on 24.9.2017 sponsoring names of 19 candidates by strictly taking into consideration, the seniority in respect of each district. The Government issued an order in GO.Rt.No.1112 Agriculture & Cooperation (AGRI.II) Department dated 27.9.2017 granting permission to the Commissioner to sponsor 19 candidates from the cadre of Agricultural Extension Officer for pursuing the said Degree course. The Commissioner sent another list on 27.9.2017 by taking into consideration the said Government Order and the names found in the list dated 24.9.2017 and 27.9.2017 are same. But, since the petitioners in Writ Petition No.33343 of 2017 wanted to take merit cum seniority into consideration and the petitioners in other Writ Petitions whose names found place in the list sent by the Commissioner contended that seniority alone should be taken into consideration, this Court considered the rival claims in the said batch of cases. This Court disposed of the batch of cases by holding that the University is not

concerned with the prescription of qualifications except verifying whether they fulfill the eligibility criteria as per the prospectus issued by the University and there was no dispute that the sponsored candidates fulfilled the eligibility criteria. Accordingly, Writ Petition No.33343 of 2017 was dismissed and other four Writ Petitions including Writ Petition No.37349 of 2017 was allowed on 16.11.2017. The said order was not implemented by the respondent.

5. In the present Contempt Case, after issuing notice, three counter affidavits were filed.

6. In the 1st counter affidavit, the respondent stated that after passing the order as aforesaid on 16.11.2017, the University did not receive an official copy but the petitioners submitted a representation on 24.11.2017 enclosing a copy of the judgment downloaded from the High Court Website. After examining the Judgment, it was found not feasible to admit the candidates at that point of time in view of the fact that the admissions to under-graduate courses were already closed on 31.10.2017. It was also stated that first semester commenced on 19.9.2017 and the last date for instructions was on 22.1.2018. It was decided not to admit the candidates as they would not be able to cope up with the syllabus. It was also

stated that the Semester final theory examinations were scheduled from 25.1.2018.

7. An Additional Counter affidavit was filed stating that the candidates were not admitted in view of the fact that the midterm examinations were already commenced. It was also stated that the official copy was received by the University on 3.1.2018 and they wanted to file a Review Petition for admitting the candidates during the academic year 2018-2019 instead of 2017-2018. Accordingly, the Government of Telangana was informed on 5.12.2017 and a copy of the said letter was marked to the Commissioner of Agriculture. This was followed by yet another counter affidavit. It was stated that after first phase of counselling from 28.8.2107 to 14.9.2017, the vacant seats were filled up by way of second and third counselling conducted on 12.10.2017, 13.10.2017 and 26.10.2017. After completion of third phase counselling, the University decided the closing date of admission as 31.10.2017.

8. The Review Petition filed by respondents was dismissed on 27-4-2018 as no grounds for review were pointed out in the application.

9. When this Contempt Case was taken into consideration, learned counsel for the respondents stated that in view of the closure of admissions on 31.10.2017, the order could not be

implemented and they want to implement the order from the next academic year.

10. When the respondent/contemnor was present in this Court, he was asked with regard to the reason and he categorically stated that he cannot implement the Court order unless the Executive Council permits him to do the same. Thus, in clear terms, the respondent stated that he cannot implement the order of this Court. The Contemnor, when administering an academic institution, should have understood the implications of violating the order of this court. If the respondent does not appeal nor implement the order, it means that he has no respect for the orders of this court. In such cases, this court cannot show any leniency but upholds the majesty of law.

11. The order of this Court has become final and no appeal was filed against the said order. The said order was passed by this Court on 16.11.2017 and the candidates were willing to forego the said period of 16 days in their academic study. The order was passed in the presence of the counsel for respondents and after considering his submissions. The candidates seeking admission are in-service candidates and their admission process is different. When the order was passed in the presence of the counsel and uploaded

immediately thereafter on the official Website of this Court, the respondents should have taken proper steps for implementing the order. When a representation was submitted on 24.11.2017 by the petitioner to the respondents enclosing a copy of the order, the same was ignored and a letter was addressed on 5.12.2017 to the Secretary to Government without informing about the order of this Court. From the reply affidavit filed by the petitioner, it came to light that when an interim order was passed by a Division Bench of this Court in Writ Petition No.30634 of 2017 on 4.10.2017 in respect of the candidates in Andhra Pradesh, the Commissioner and Director of Agriculture of Andhra Pradesh issued a memo on 28.11.2017 to relieve the provisionally selected in-service candidates to pursue the Degree course and allowed them to join on or before 4.12.2017. Though the midterm examinations were completed, they were conducted separately to in-service candidates. Though the said situation appeared in respect of the State of Andhra Pradesh, the rules are common.

12. In view of the averments in the counter affidavit and the oral statement made by the respondent in the open Court, this Court has no option but to come to the conclusion that the respondent deliberately violated the order of this Court.

13. In this connection, it is apposite to quote the relevant portion of the judgment in *Taluri Seshaiiah v. M.Narayan Rao*¹ and it reads as follows:

“In so far as the reasons for his not complying with the orders of this Court are concerned, they cannot be accepted as having any validity. When an order of the High Court directs a person to do something or omit to do something, it is incumbent on that person to comply with that order forthwith without any doubt or hesitation in his mind. The excuse that he may be found fault with by the higher authorities or that he should consult the higher authorities before complying with the orders of Court can be of no avail when he is asked to show cause why he should not be committed for contempt. No official superior can take any action against any of his Subordinates for complying with the orders of Court. It is somewhat regrettable that there should prevail an attitude of mind, namely, that when orders of Court are received, a public servant should think that he has to approach his official superior and get further directions and get their permission also to comply with the directions of Court. We may reiterate the observations of Subba Rao, C.J. (as he then was) in *Jones Shield v. Ramesam*, 1955-1 Andh WR 208 at P. 211: ((S) AIR Andh 156 at p.159) "this Court will take a serious view, if public officers of responsibility act in such a manner as to obstruct the course of justice or disobey to implement the orders of Court, for such acts will undermine the prestige of Courts and set a bad example to the public". The risks involved in hesitation or delay, for whatever reason, in complying with the orders of Court are serious, and the person disobeying them or not complying with them will alone be responsible for the consequences and he cannot be heard to say that he has referred the matter to his official superiors; and for that matter, his official superiors cannot give him any kind of protection. It may be pointed out that the arm of the law is long enough to reach even the superior officers themselves if they give instructions contrary to the orders of the Court, or give an impression to the Subordinate officials that compliance with orders of Court without their approval will open them to disciplinary action or make them blameworthy. Similarly an excuse as we have found stated in some cases, that the order was received in office by some clerk and it was not placed before the officer to whom it is addressed and who has to comply, would not be of any avail. In our view, it is desirable that the Government should issue suitable instructions to their subordinate officials bringing to their notice the serious consequences of non-compliance with the orders of Court, on the plea that they

¹ 1966 (1) ALT 158 : AIR 1967 AP 19

have to first obtain orders of their official superiors before complying with the Courts orders. Such instructions will obviate any fear or misconception in the mind of these officials that they may be opening themselves to disciplinary action if they comply with the orders of Court.”

14. Accordingly, the respondent is convicted under Contempt of Courts Act and sentenced to 15 days simple imprisonment. This order is suspended for a period of 30 days in order to enable the respondent to take appropriate steps, if any.

15. The Contempt Case is, accordingly, allowed.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Date: 30.4.2018

KPM

A. RAMALINGESWARA RAO,J

