

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT APPEAL No.128 of 2019

JUDGMENT: *(per the Hon'ble Justice Sri A.Rajasheker Reddy)*

This appeal, under Clause 15 of Letters Patent, is preferred against the interlocutory common order dated 26.09.2018 passed by the learned Single Judge insofar as it relates to I.A.Nos.1 and 2 of 2018 in W.P.No.5017 of 2018, wherein and whereby the interim order earlier granted was modified.

2. Heard learned counsel for the appellants-writ petitioners, learned Government Pleader for Education for the second respondent and the learned Standing Counsel for the third respondent.

3. The appellants-writ petitioners, who are Orthopaedically Handicapped, have participated in the recruitment for selection to the vacancies in the cadre of Secondary Grade Teacher (SGT) pursuant to Notification No.53/2017 dated 21.10.2017. Their grievance was with reference to not carrying forward vacancies reserved to persons with disability and not applying the principle of interchanging. A learned Single Judge of this Court, by order dated in I.A.No.1 of 2018 in W.P.No.5017 of 2018, while permitting the respondents to conduct the recruitment, directed them not to announce the results of Khammam and Warangal Districts posts. The State

Government filed I.A.No.2 of 2018 seeking vacation of the said interim order.

4. The learned Single Judge clubbed this writ petition along with two other writ petitions and by the impugned common order dated 26.09.2018 held that no positive direction can be given as even according to Section 34(2) of the Rights of Persons with Disabilities Act, 2016 (for short, 'the Act'), the question of interchange would arise at the end of recruitment process and if vacancies reserved for Visually Handicapped and Hearing Impaired are not filled up by the said categories, the same can be interchanged with Orthopaedically handicapped. The learned Single Judge, while vacating the interim order dated 16.02.2018 insofar as the recruitment to all other vacancies except to the vacancies reserved to be filled up by persons with disability, directed the respondent-Corporation to make selection to vacancies earmarked to persons with disability by applying Section 34(2) of the Act to the extent of vacancies which are carried over from DSC, 2012. To be specific, the respondent-Corporation was directed to first examine whether the candidates belonging to Visually Handicapped and Hearing Impaired are available against the vacancies notified to be filled up by them and which vacancies were carried over from DSC, 2012 and if no qualified candidate is available from the said categories, the said vacancies be diverted to be filled up by Orthopaedically Handicapped candidates subject to their

eligibility and suitability. However, any such recruitment shall abide the result of these writ petitions.

5. A perusal of the impugned order goes to show that the learned Single Judge has considered the matter in proper perspective and vacated the interim order dated 16.02.2018 by giving valid reasons. However, learned counsel for the appellants went on to argue on the merits in the writ petition. As the impugned order is only an interlocutory order and the main writ petition is yet to be decided finally, we are not inclined to interfere with the same in this intra-Court appeal.

6. The writ appeal is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

Date: 13.03.2019

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