

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

WRIT PETITION No.43568 of 2018
AND
WRIT APPEAL No.144 of 2019

COMMON ORDER: (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

This Writ Appeal is filed against the order, dated 30.01.2019, in W.P.No.1643 of 2019, whereby and whereunder the learned single Judge dismissed the said Writ Petition on the ground that the petitioner's earlier Writ Petition in W.P.No.43568 of 2018 challenging the inaction of the respondents in taking steps for correcting his date of birth is pending, and as such the present Writ Petition in W.P.No.1643 of 2019 is not required to be entertained.

2. Learned counsel for the appellant submits that W.P.No.43568 of 2018 was filed by the appellant/writ petitioner for consideration of the application for correction of his date of birth, which is pending. He further submits that as the respondents have already passed an order rejecting his application, the said Writ Petition has become infructuous and, therefore, the appellant/writ petitioner intends to withdraw the said Writ Petition in W.P.No.43568 of 2018.

3. In view of the above, learned Counsel for the appellant/writ petitioner is permitted to withdraw W.P.No.43568 of 2018 and the said Writ Petition is hereby dismissed as withdrawn.

4. Coming to the case on hand, as per the pleadings in the Writ Appeal it goes to show that the appellant's application for correction of date of birth was rejected and, therefore, the impugned Memo was issued by superannuating the appellant/writ petitioner and correctness or otherwise of the order passed by the respondents rejecting the application of the appellant/writ petitioner has to be considered in the Writ Petition.

5. In view of the above, the impugned order of the learned single Judge is set aside and W.P.No.1643 of 2019 is restored to file and the Writ Appeal is, accordingly, allowed. It is open for the appellant to seek necessary interim relief in the Writ Petition, which is restored to file.

6. In the result, W.P.No.43568 of 2018 is dismissed as withdrawn and W.A.No.144 of 2019 is allowed.

The miscellaneous petitions pending in these cases, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

26.02.2019
vs