

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.9478 OF 2019

ORDER:

With the consent of both the parties this Writ Petition is being disposed of at the admission stage.

The petitioners challenge the action of respondents in engaging them as Vidya Volunteers, pursuant to G.O.Rt.No.97 dated 29.06.2016 and G.O.Rt.No.48 dated 02.06.2018, for a fixed tenure for the academic year 2018-19, and at the end of academic year, terminating their services and again recruiting other temporary Vidya Volunteers for the next academic year and seek consequential direction to continue them as Vidya Volunteers till they are being replaced by regular Teachers.

Heard Mr.A.V.V.S.Bhujanga Rao, learned counsel for the petitioners and the learned Government Pleader for Education.

It has been contended by petitioners that they are fully eligible and qualified to be appointed as regular Teachers. The respondents have issued a press release in the news paper for appointment of Vidya Volunteers for the academic year 2018-19. The petitioners have responded to the said press release and they were subjected to regular selection process in terms of the guidelines annexed to G.O.Rt.No.97 dated 29.06.2016 and their appointments were approved by the District Level Committee comprising District Collector as its Chairman. The petitioners are discharging their duties as Vidya Volunteers to the best satisfaction of their superiors and everyone. The State Government vide G.O.Rt.No.48 dated 02.06.2018 had permitted the Commissioner and Director of School Education, Telangana, to

engage 16781 Vidya Volunteers in all Local/Government Primary Schools and Upper Primary Schools for the academic year 2018-19 with a honorarium of Rs.12,000/- per month till newly recruited regular Teachers join duty.

The State Government had also permitted the Commissioner to fill up regular vacancies and leave vacancies of Teachers with the Vidya Volunteers as stop-gap arrangement so as to ensure that the children would not suffer with the shortage of Teachers. The State Government is engaging Vidya Volunteers on year to year basis by conducting selections every academic year and the respondents are replacing the temporary Vidya Volunteers instead of allowing them to continue as Vidya Volunteers on adhoc basis till regular Teachers are appointed in their place. The respondents have issued regular Notification for filling up Secondary Grade Teachers etc., way back in the year 2017. Pursuant to the said Notification, if regular Teachers are appointed, they are willing to make way for the regular Teachers and at least till the regular Teachers are appointed, the petitioners should be continued without subjecting them to another selection process for the next academic year. The State Government has taken a policy decision to fill up regular vacant posts by way of Vidya Volunteers on adhoc basis in tune with the Right of Children to Free and Compulsory Education Act, 2009 and the Rules framed thereunder.

The State Government had been engaging Vidya Volunteers to ensure that the children in Schools would not suffer for want of qualified teachers. Accordingly, all the petitioners were appointed as Vidya Volunteers and they are discharging their duties as such but only for the academic year 2018-19 in terms of G.O.Rt.No.48

dated 02.06.2018. The petitioners contended that instead of continuing them only for the academic year 2018-19, they may be continued till regular Teachers are appointed in the Schools in which they are working. Therefore, the petitioners contended that till the respondents fill up the vacancies of Teachers on regular basis, the petitioners be continued as Vidya Volunteers. The petitioners further contended that some of the petitioners are working in leave vacancies and the petitioners should be continued as Vidya Volunteers till the regular Teachers rejoin in the leave vacancies. Therefore, the learned counsel for petitioners contended that appropriate orders be passed in the Writ Petition directing the respondents to continue the petitioners as Vidya Volunteers without subjecting them to another selection process for the next academic year and till such time they are being replaced by regular Teachers.

Learned Government Pleader appearing for respondents has contended that the petitioners are not entitled to be continued beyond the academic year 2018-19 as their appointment itself is only for one academic year i.e., 2018-19. The petitioners were appointed as stop-gap arrangement. In many of the cases, Vidya Volunteers were appointed in the leave vacancies for a very limited period i.e. for two to three months whenever regular Teachers go on leave and the moment when the regular teachers rejoin after leave, the services of Vidya Volunteers would be terminated. The petitioners were never appointed for one academic year and it is only a stop gap arrangement that too for a limited period, the petitioners were engaged as Vidya Volunteers. As the petitioners

are appointed on temporary and adhoc basis, no right would accrue in favour of the petitioners.

Learned Government Pleader further contended that some of the Vidya Volunteers are working without requisite qualification and they are not entitled to be continued as Vidya Volunteers. Therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the petitioners were engaged as stop-gap arrangement in the regular vacancies and leave vacancies. The petitioners would be entitled to continue till regular Teachers are appointed or till the regular Teachers rejoin the services after availing leave. The 1st respondent shall assess the situation of requirement of Vidya Volunteers against regular vacancies and leave vacancies for the academic year 2019-20. Depending upon their need, the respondents are entitled to engage Vidya Volunteers as is required by them. However, while engaging Vidya Volunteers, the respondents would consider such Vidya Volunteers, who are working as on today and they would not be subjected to further selections for their continuance in the regular vacancies and leave vacancies even for the academic year 2019-2020.

The above said direction is being issued in view of the law laid down by the Hon'ble Supreme Court in **STATE OF PUNJAB AND OTHERS Vs. SUPREET RAJPAL AND ANOTHER¹** wherein it was held that one temporary employee cannot be replaced by another temporary employee till regular employee joins duty.

¹ AIR 2007 SCW 7006

The petitioners are engaged on adhoc basis in the regular vacancies and leave vacancies. If the situation does not improve in respect of regular vacancies and leave vacancies, even for the next academic year, then the petitioners are entitled to be continued without subjecting to further selections. In view of the submission made by the learned Government Pleader that many of the Vidya Volunteers were already terminated consequent upon regular Teachers joining duty after availing leave, those terminated Vidya Volunteers need not be continued. However, if there is a need of engaging Vidya Volunteers other than those who are already continuing as on today, the terminated Vidya Volunteers can also respond to the fresh need of Vidya Volunteers. It is further clarified that for the period from the end of academic year of 2018-19 till next academic year, the petitioners would not be entitled for any salary or honorarium.

Insofar as the contention of the learned Government Pleader that some of the Vidya Volunteers are not having requisite qualification, it is always open for the respondents to discontinue such of those Vidya Volunteers, who do not have requisite qualification.

With the above observations, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

30th April 2019
RRB