

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.13305 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“.... to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the impugned termination order No.E 11/ 2019 School dated 29.6.2019 read with No.A.II.1/ 2019-20 GC RRY/ Bldg dated 30.6.2019 issued by the 4th respondent i.e., Sri M.Paghu Ram set aside the same as being arbitrary, illegal, discriminatory vindictive irrational, void and violation of Articles 14 and 21 of the Constitution of India, malafide, void and nonest and consequently hold that the petitioner is entitled to be treated as having been continued dehorse the termination order dated 29.6.2019 with all other attendant benefits”

Heard Mr.D.Linga Rao, learned counsel for petitioner and Mr.K.Lakshman, the learned Assistant Solicitor General for respondents.

It has been contended by the petitioner that he was appointed as Primary Teacher on 23.06.2009 and since then, he has been discharging his duties to the best satisfaction of his superiors and every one concerned. The petitioner submits that in the appointment order dated 23.06.2009, it was clearly stated that the services of the petitioner would be governed by the A.P.Education Act, 1982, the A.P.Educational Institutions under Private Management Rules, 1993 and the A.P.(Integrated) Educational Rules, 1966. When the respondents have not considered the case of the petitioner for promotion to the post of Post Graduate Teacher, the petitioner filed W.P.No.25853 of 2018 and this Court, on 26.07.2018, passed the following interim order :-

‘ Notice before admission, returnable in two (2) weeks.

Post after two (2) weeks.

The grievance of the petitioner is that even though he was subjected to selection process pursuant to the office order dated 26.02.2018 and qualified in the test conducted for promotion as Post Graduate Teacher (Economics), he is not appointed as Post Graduate Teacher.

Having regard to the same, the 2nd respondent is directed to consider the case of the petitioner for appointment to the post of Post Graduate Teacher (Economics) pursuant to the selection process instead on 26.02.2018, if so far he is not considered and overlooked for promotion. If he was already overlooked for promotion, reasons be furnished to the petitioner. The decision shall be taken and communicated to the petitioner within a period of two (2) weeks from the date of receipt of a copy of the order.”

Learned counsel appearing for the petitioner submits that in spite of the above said interim order, the respondents are not considering the case of the petitioner for promotion. When the petitioner was not in the house, respondents 7 and 8 have entered into the house of the petitioner and forced his wife to accept the rejection order. In those set of circumstances, the petitioner's wife lodged police complaint against respondents 7 and 8. He further submits that as a counter blast, the respondents have terminated the services of the petitioner vide proceedings dated 29.06.2019 on the alleged ground that the petitioner has misbehaved with respondents 7 and 8 by using abusive and filthy language in front of parents, students and staff. The respondents without conducting any enquiry and without following Section 79 of the A.P. Education Act have terminated the services of the petitioner vide proceedings dated 29.06.2019. He further submits that vide proceedings dated 30.06.2019 the respondents are forcing the petitioner to vacate the quarters allotted to him by 02.07.2019. Therefore, the action of the respondents in terminating the services of the petitioner without conducting any enquiry and without giving any opportunity to the

petitioner is arbitrary and illegal, and therefore, the impugned order is liable to be set aside.

The learned Assistant Solicitor General has contended that as per Bye-Law 42 of CBSE, the respondents have terminated the services of the petitioner for the proven misconduct of the petitioner. If the petitioner is aggrieved by the impugned order, he is at liberty to file appeal in accordance with the Rules. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that when the petitioner has contended that the service conditions of the petitioner are governed by the A.P. Education Act and the Rules as is reflected in the appointment order of the petitioner dated 23.06.2009 and if the petitioner is terminated contrary to A.P. Education Act and the Rules, he has an effective alternative remedy in the form of appeal under Section 80 of the A.P. Education Act before the competent authority.

Therefore, this writ petition is disposed of directing the petitioner to prefer an appeal in accordance with the Rules within a period of two weeks from today. The appellate authority shall entertain the same and pass appropriate orders in accordance with Rules. If the petitioner prefers an appeal within the above stipulated period, the respondents shall not insist the petitioner to vacate the quarters for a period of four weeks. Whether the petitioner is entitled to be continued beyond four weeks or not, it is for the appellate authority to consider the same and pass appropriate orders in accordance with Rules. It is needless to say

that the appellate authority shall give opportunity to the Management as well as to the petitioner and decide the appeal preferred by the petitioner in accordance with the Rules.

With the above observations, the writ petition is disposed of.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 02-07-2019

Note:

Issue C.C. in two days

(B/o)

Prv



