

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23109 of 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus, to direct the respondents to re-conduct the transfer process/counseling for autonomous degree colleges in the category of Principal in accordance with para 9 of G.O.Rt.No.115 dated 06.06.2018 read with G.O.Ms.No.42 dated 04.06.2001 and accordingly issue fresh posting/transfer orders to the eligible candidates as per the entitlement and eligibility and as per the policy decision as enumerated in G.O.Rt.No.115 dated 06.06.2018 read with G.O.Ms.No.42 dated 04.06.2001 by holding the action of the respondents in violating para 9 and para 6 of G.O.Rt.No.115 dated 06.06.2018 read with G.O.Ms.No.42 dated 04.06.2001 and posting the petitioner to a least opted option and not allowing the petitioner to opt for Government Degree College for Women, Begumpet which is the only autonomous Degree College for Women in the State of Telangana, and posting an ineligible candidate i.e., party respondent as Principal of the said College in total violation of all the norms and policy decision, as bad, illegal, arbitrary, discriminatory, unconstitutional and violative of G.O.Rt.No.115 dated 06.06.2018.

Heard Sri J.Sudheer, learned counsel for the petitioner, the learned Government Pleader for Higher Education (TG) appearing for respondent Nos.1 and 2 and Sri D.Goverdhana Chary, learned counsel for the 3rd respondent.

It has been contended by the petitioner that she has been working as a Principal in Kakatiya Government Degree College, Hanamkonda and as she has completed 11 years of service in Hanamkonda, she was to be compulsorily transferred in terms of the transfer policy. The petitioner further submitted that the State Government had issued guidelines for transfer of employees

working in Collegiate Education and Technical Education Department vide G.O.Rt.No.115 dated 06.06.2018, wherein it is specifically stated in para 9 that in case of autonomous Degree Colleges, the transfers shall be effected subject to the recommendations of the Committee constituted vide G.O.Ms.No.42, Higher Education (UE.I-1) Department, dated 04.06.2001 and the candidate with NET/SLET will be treated on par with Ph.D as per UGC Regulations. It is stated that the petitioner had participated in the transfer counseling conducted by the respondents. The grievance of the petitioner is that at the time of transfer counseling, the respondents have not followed the guidelines stated in para 9 of G.O.Rt.No.115 dated 06.06.2018 and the list of autonomous colleges was not displayed and consequently, she could not apply for autonomous Degree Colleges in tune with para 9 of the said G.O.Rt and her case was considered only in terms of para 7 of the said G.O.Rt., whereby transfers from one focal post to another focal post were prohibited and transfers would be effected from focal to non-focal, non-focal to non-focal or from non-focal to focal posts only. The petitioner's case was considered only in terms of para 7 and she is transferred to Government Degree College, Parkal, Warangal District in the transfer counseling conducted by the respondents and the respondents have not considered the case of the petitioner for transfer to autonomous Degree College, where a separate procedure was to be adopted by the respondents while effecting transfers as per G.O.Rt.No.115 dated 06.06.2018.

Therefore, learned counsel for the petitioner submits that the action of the respondents in not considering the case of the petitioner for transfer to autonomous Degree College and transferring the unofficial respondent to the autonomous Degree College, is arbitrary and illegal and the petitioner be transferred to autonomous Degree College, where the 3rd respondent is transferred, by considering the aspect that the 3rd respondent is a male

candidate, whereas the petitioner is a female candidate. Learned counsel further submitted that as per the transfer guidelines, a woman candidate should be given preference while posting in Women Degree College and admittedly the Government Degree College for Women at Begumpet is the only Women Degree College where the petitioner is more suited than the 3rd respondent. Learned counsel for the petitioner further submitted that appropriate orders be passed in the writ petition directing the respondents to transfer the petitioner to the Government Degree College for Women, Begumpet by canceling the orders of transfers of the 3rd respondent.

The learned Government Pleader appearing for the respondents 1 and 2 had submitted that the case of the petitioner was considered in terms of para 7 of G.O.Rt.No.115 dated 06.06.2018, as the petitioner was already working in a focal post and the Government Degree College for Women at Begumpet is another focal post. Learned Government Pleader further submitted that as per the guidelines issued by the State Government in G.O.Rt.No.115, transfers from one focal post to another focal post was prohibited and para 9 of the said G.O.Rt has to be read in consonance with para 7 thereof. Learned Government Pleader further submitted that as the petitioner was already working in a focal post, her transfer to another focal post was not considered in terms of the said transfer guidelines and also the petitioner never claimed for transfer to Government Degree College for Women, Begumpet and no application to consider the case of the petitioner in terms of para 9 of the said G.O.Rt., is pending with the respondents, therefore, in the absence of any claim by the petitioner to consider her transfer to Government Degree College for Women at Begumpet, the petitioner could not have filed the present writ petition seeking Mandamus.

Learned Government Pleader also submitted that earlier the petitioner has filed W.P.No.20475 of 2018 challenging the orders of her transfer to Parkal and the same was dismissed by this Court vide orders dated 21.06.2018 and the petitioner has not disclosed about the said factum, hence, the writ petition is liable to be dismissed in limini.

This Court, having considered the rival submissions made by learned counsel for both parties, is of the considered view that the petitioner has not even submitted a representation staking her claim to transfer her to Government Degree College for Women at Begumpet and the basic requirement of Mandamus is that there should be a demand for enforcing the legal right and, in the absence of the same, a writ of Mandamus is not maintainable. The petitioner has not sought for transfer in terms of para 9 of G.O.Rt.No.115 dated 06.06.2018 and without there being a demand for enforcement of legal right, the petitioner could not have filed the present writ petition. The transfer guidelines were issued on 06.06.2018 before the respondents had undertaken the transfer counseling. The petitioner has not filed a representation for consideration of her transfer to autonomous Degree College and also she has not raised her single finger staking her claim for consideration of her case in terms of para 9 of the said G.O.Rt. However, this Court is of the considered view that ends of justice would be met if the petitioner is permitted to make a fresh representation to the respondents staking her claim for transfer to autonomous Degree College in terms of para 9 of G.O.Rt.No.115 dated 06.06.2018 within a period of two weeks from the date of receipt of a copy of this order and, upon such a representation being received, the respondents shall consider the same in terms of para 9 of the said G.O.Rt., in the future transfer counseling, whenever they undertake such exercise of conducting transfer counseling, and pass appropriate orders.

With the above observations, this writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th June 2019
v v

