

HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.26597 OF 2019

ORDER (ORAL) :

This writ petition is filed by the petitioners seeking to declare the proceedings bearing Rc.No.1184/A6/COR/2015 dated 08.11.2019 issued by the Respondent No.4-District Educational Officer and consequential proceedings bearing Rc.No.083/Asafia/SDBZN/2019 dated 27.11.2019 issued by the Respondent No.5-Deputy Educational Officer as being arbitrary, discriminatory and violative of Articles 14, 29, and 30 of the Constitution of India, Section 24 of the A.P. Educational Act, 1982, the Wakf Act, 1995, violative of principles of natural justice and without jurisdiction and for a consequential direction to the respondents not to give effect to the same.

2. Heard Sri B. Nalin Kumar, learned counsel for the petitioners, learned Government Pleader for Education appearing for respondent Nos.1 to 5, learned Assistant Government Pleader for Home appearing for respondent No.6, and Sri Vedula Venkataramana, learned senior counsel appearing for M/s. Bhardwaj Associates-respondent No.7, and perused the material on record.

3. The learned counsel for the petitioners submits that the impugned proceedings passed by respondent No.4 - the District Educational Officer, Hyderabad District, Hyderabad, is a non-speaking one and from a reading of the same, it would be clear that

respondent No.4 has not considered any of the objections placed by the petitioners before him, and seeks for setting aside the same

4. In opposition, the learned Government Pleader submits that the School does not have any students as on today and the School authorities are not taking any aid, as such, there is no need for continuation of School Correspondent in terms of Section 24 of the A.P. Educational Act, 1982 (for short 'Act').

5. Learned counsel for the petitioners further submits that though the school is not receiving any grant-in-aid, which fact has been disclosed by the petitioners in the writ petition, however, the authorities are required to make note of the change of Correspondent in their records.

6. The learned senior counsel representing 7th respondent submits that the School was being run through a Correspondent appointed by the Government and respondent No.7, who is recognised as Correspondent of the School by virtue of the impugned proceedings of respondent No.4, has not taken charge of the School. However, he fairly submits that having regard to grievance of the petitioners with regard to non-consideration of their objections by the 4th respondent, the matter may be remanded back to the authority for de novo consideration.

7. As seen from the impugned proceedings, pursuant to the orders of this Court in W.A. No.1454 of 2018 dated 0.11.2018 arising

out of the order of this Court in W.P. No.38056 of 2016 dated 01.10.2018, a show cause notice was issued by respondent No.4 to the petitioners on 16.08.2019. In response to the show cause notice, the petitioners filed its objections on 11.09.2019. On receiving the objections from the petitioners, respondent No.4 issued another show cause notice dated 17.10.2019, reference of which is made at Serial No.9 in the reference column of the impugned proceedings. It is claimed by the petitioners that in response to the said notice, the petitioners have submitted their reply / explanation on 23.10.2019 along with the documents mentioned therein. Except referring to the above correspondence, respondent No.4 without adverting to the records and without considering the objections / explanation and the documents placed by the petitioners, has passed the impugned proceedings, recognising respondent No.7 as Correspondent of Asafia Primary and High School (Aided), Malakpet, Hyderabad. Basing on the impugned proceedings passed by respondent No.4, respondent No.5 issued the proceedings dated 27.11.2019.

8. Having regard to the above submissions made, it can be seen that since the impugned proceeding passed by the 4th respondent, is a non-speaking one, and is passed without adverting to the records and objections filed by the petitioners, and on this sole ground, the impugned proceedings cannot be sustained. Therefore, without expressing any opinion on the other submissions made by both sides, the impugned proceedings dated 08.11.2019 and the consequential

proceedings dated 27.11.2019 are set aside and the matter is remitted back to respondent No.4 to pass an order afresh by considering the entire material on record including the objections submitted by the petitioners, after affording an opportunity of hearing to all sides. In view of the pendency of the proceedings for a substantial time, respondent No.4 is directed to complete the entire exercise within a period of three (3) months from the date of receipt of a copy of this order. Once, such order is passed, such proceeding being amenable to the remedy of appeal, the parties are directed to avail such remedy provided under the Act.

9. With the above directions, the writ petition is allowed.
No order as to costs.

10. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition stand closed.

December 2, 2019.
PV

T. VINOD KUMAR, J