

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

WRIT APPEAL No.1389 OF 2018

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the appellant and the learned Government Pleader for the Department of Education.

2. This Writ Appeal is filed against the order by which the learned Single Judge dismissed the Writ Petition whereby the writ appellant challenged the cancellation of an earlier order issued permitting him to avail the facility of undergoing B. Ed Course, receiving full pay and allowances.

3. There was no opportunity for the Government to contest the matter inasmuch as no counter-affidavit was filed though one of the critical issues that arise for consideration was as to whether the respondents were justified in cancelling the permission already granted, without giving the writ appellant an opportunity of pre-decisional hearing on the question of cancellation. The second issue that may arise for decision as between the parties is as to whether the appellant, who is a Language Pandit, as per the applicable rules, is entitled to claim the benefit of an in-service allotment of undergoing B. Ed Course in Social Studies with full pay and allowances unless acquisition of such qualification

is one that would be required for him to move up the ladder in the establishment in terms of the applicable recruitment rules. In the fitness of things, we are of the view that it is appropriate that the competent authority, among the respondents, hears the writ appellant and takes a decision on the matter to pave way. For this, the impugned order needs to be vacated, without expressing either way on the correctness of its contents.

4. In the result, the Writ Appeal is allowed vacating the impugned order, without expressing anything on the merits of the rival contentions, and relegating the writ appellant to the second respondent - Commissioner & Director of School Education, Hyderabad, to make requisite representation voicing his grievances. That Officer will provide an opportunity of personal hearing to the appellant and also to produce any material or written submissions. A final decision shall be taken by the second respondent on the issue, without relying on the contents of this judgment or the views of the learned Single Judge, within an outer limit of one month from the date of receipt of a copy of this judgment because the petitioner has shown on record that he had, as a matter of fact, joined the Course in a particular institution. To enable further proceedings, the order impugned in the writ petition will be taken as a provisional decision calling upon the writ appellant to show cause against him

and the second respondent will deal with all consequential issues as well.

5. Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

Date: 07.03.2019

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