

**HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.42628 OF 2017

ORDER: (ORAL) (Per Hon'ble Sri Justice A. Rajasheker Reddy)

This Writ Petition under Article 227 of the Constitution of India is filed seeking to quash the order of allocation of petitioner to the State of Andhra Pradesh through Order No.(1)/2017 dated 04.10.2017 issued by the Union of India - respondent No.1 as being illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India besides, being contrary to the Presidential Order and the A.P. Reorganization Act, and consequently to declare that the petitioner is entitled to be allocated and continued as Court Master in the State of Telangana with all consequential service and monetary benefits.

2. The writ petitioner states that she was appointed as Court Master in Andhra Pradesh Administrative Tribunal (for short 'APAT') on 21.09.2011 as a direct recruitee and on completion of period for probation, her services were regularised in the said post. She states that she is native of Khammam District and she prosecuted her studies in Khammam and that she is a local candidate of Khammam District, which is in Telangana State. She states that she opted for Telangana State as her husband is working as Post Graduate Teacher and

FAC Principal in Telangana State Model School, Maddur Village and Mandal, Warangal District, and, therefore, she claimed preferential treatment as per Column 19 in the option form as per the guidelines for allocation.

3. She further states that respondent No.5 through Notification No.19326-A/SR/2016 dated 06.09.2017, issued a list of tentative allocation of State cadre employees of APAT inviting representations under paragraph Nos.19 and 20 of the guidelines, wherein she was shown at Serial No.18 allocating her to the State of Andhra Pradesh. Aggrieved of the same, she submitted her objections by way of representation on 20.09.2017 stating that her husband, who was working as a Post Graduate Teacher in Zone - V in A.P Model School prior to bifurcation, is allotted to Telangana State Model School after bifurcation, as such, requested to allocate her for the State of Telangana considering her option. However, without considering her request, respondent No.1 issued Order No.1/2017 dated 04.10.2017 allotting her permanently to the State of Andhra Pradesh. Impugning the same, the present Writ Petition is filed.

4. A common counter affidavit is filed by respondent Nos.2, 4 and 6, admitting that the petitioner opted for the State of Telangana claiming preferential treatment as her husband is an employee of Telangana State Model Schools. It is stated that the Model Schools come under Rashtriya Madhyamik Shiksha Abhiyan (RMSA) Society fully funded by the Government and spouses working in Model

Schools are not eligible for preferential allocation as per Guidelines in Circular Memo No.19184/SR1/A1/2014-7 issued by GA(SR) Departments of both the States. Respondents further stated that in the seniority list, the petitioner stood at 18 out of 20 employees of her cadre, and, out of them, eight (8) employees, who are seniors to her and belong to Telangana, opted for Telangana State and they were allotted to Telangana, as such, there were no posts for allocating her in Telangana, and, therefore, she was allotted to Andhra Pradesh.

5. The admitted facts are that the petitioner is working as Court Master in APAT and her husband is also working in Model School as stated above and she has opted for allocating to the State of Telangana. The only ground on which the petitioner was allocated to the State of Andhra Pradesh is that her husband is working in Model Schools, and the guidelines are not applicable to the case of the petitioner since her husband is not a Government servant. Admittedly, the Model Schools are run and funded by the State Government.

6. This Court in W.P. No.5680 of 2017 dated 28.01.2019, relied on by the learned counsel for the petitioner, held as under:

“4. Deliberating on the content of those sub-clauses and taking into consideration the order of the Division Bench of this Court in **Dr.S.Shoba Rani v. The State Reorganisation Department** (W.P.No.23775 of 2016, dated 27.02.2017), we are of the view that the petitioner is eligible to stand

allotted to the State of Telangana on spouse ground. The concept being a spouse of an All India Service Officer, who belongs to a State cadre is wide enough to take within its view those who are employed in institutions under the control of the Government of India. The Indian National Centre for Ocean Information Services is under the control of the Ministry of Earth Sciences of Government of India and there is no reason to assume that it is not part of the group identified as All India Service Officer for the purpose of the protective covenant in favour of spouses in sub-clauses (k) and (l) of Clause 18 of the guidelines. We are, therefore, of the view that this Writ Petition is eligible to succeed.”

7. In view of the above, we are not inclined to accept the case of the respondents that the petitioner is not entitled to allocation for the State of Telangana since her husband is working in Model School funded by the Government of Telangana State. The admitted fact that the petitioner has exercised her option to allocate her for the State of Telangana would show that her husband is also working in Model School continuing in the State of Telangana. We are also of the view that the respondents cannot take a hyper technical view of the matter in considering the guidelines issued for preferential allocation in cases of spouses, the object being spouses as far as possible be working for better administration.

8. Therefore, the orders of the respondents allocating the petitioner to the State of Andhra Pradesh are unsustainable.

Resultantly, the said decision is set aside and the respondents are directed to allocate the petitioner for the State of Telangana in the available department, taking into consideration her spouse factor and pass consequential orders, as may be found necessary, to give effect to the contents of this decision. It is also ordered that consequential orders be issued by the competent authority among the respondents.

9. With the above directions, the Writ Petition is allowed.

No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the writ petition stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

February 6, 2019.

PV/LRKM