IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2020

BEFORE

THE HON' BLE MR. JUSTICE S.G. PANDIT

WRIT PETITION No.14470/2017 (S-REG)

BETWEEN:

SRI K GOVINDAPPA
S/O KARETHIMMAIAH,
AGED 55 YEARS,
R/A TANNIARANAHALLY VILLAGE,
DODDABALLAPURA TALUK,
BHAKTRAHALLI POST,
BANGALORE RURAL DISTRICT,
BANGALORE-561204.

...PETITIONER

(BY SRI.K N NITISH, ADV. FOR
SRI K V NARASIMHAN, ADV.)

AND:

1. STATE OF KARNATAKA
   BY ITS SECRETARY,
   DEPARTMENT OF PRIMARY AND
   SECONDARY EDUCATION,
   M.S.BUILDING,
   BANGALORE - 560 001.

2. BLOCK EDUCATION OFFICER
   DODDABALLAPURA TALUK,
   BANGALORE RURAL DISTRICT-561204.

3. PRINCIPAL
   GOVERNMENT HIGHER AND PRIMARY SCHOOL,
   ALAPPANAHALLY,
   DODDABALLAPURA TALUK,
   BANGALORE RURAL DISTRICT-561204.

4. DEPUTY DIRECTOR OF PUBLIC INSTRUCTIONS
SHIKASHAKARA BHAVANA,
K.G.ROAD, BANGALORE - 560 009.

...RESPONDENTS

(BY SRI.SRIDHAR N HEGDE, ADV. FOR R1 TO 4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED COMMUNICATION DATED 14.11.2016 ISSUED BY THE R3 AT ANNEXURE-D AND DIRECT THE RESPONDENTS TO REGULARISE THE SERVICE OF THE PETITIONER IN THE R3 SCHOOL.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP **THROUGH VIDEO CONFERENCE** THIS DAY, THE COURT MADE THE FOLLOWING:-

O R D E R

The petitioner, who is appointed as a temporary teacher in the 3rd respondent – Government Higher and Primary School (for short 'the School'), is before this Court under Article 226 of the Constitution of India praying for a writ of certiorari to quash the communication dated 14.11.2016 (Annexure-D) by which he has been directed not to enter the school premises till further orders by the Block Education Officer.

2. Heard Sri K.N. Nitish for Sri.K.V. Narasimhan, learned counsel for the petitioner and learned HCGP for respondent Nos.1 to 4. Perused the entire writ petition papers.

3. Petitioner submits that he was appointed as teacher in the 3rd respondent – School on 26.10.1988 on temporary basis (adhoc). While discharging duty as temporary teacher in the 3rd respondent – School, the petitioner was issued with notice at Annexure-D dated 14.11.2016 directing the petitioner not to enter the school premises till further orders by the Block Education Officer (for short 'the BEO'), as the petitioner has not cared for the direction of officers in the enquiry held on 11.11.2016. Aggrieved by the said notice, the petitioner is before this Court in this writ petition. This Court at the stage of preliminary hearing on 19.04.2017 granted interim order staying the operation of Annexure-D. Subsequently this Court by order dated

17.08.2017 on the complaint of the petitioner that respondent No.3 has disobeyed this Court order dated 19.04.2017, directed the petitioner to be present before respondent No.3 and directed respondent No.3 to permit the petitioner to work in the school. It is submitted that pursuant to the interim order, the petitioner is working in the 3rd respondent-School.

4. Per contra, learned HCGP taking through the affidavit dated 11.08.2017 submits that the preliminary enquiry was held against the petitioner and based on the preliminary enquiry dated 11.11.2016, the petitioner was issued with Annexure-D – impugned notice. Further he submits that there were several complaints by the other teachers of the school and members of the School Development Management Committee. Thus the respondent took action directing the petitioner not to enter the school premises as his entry would disturb the functioning of the school.

Further learned counsel would contend that services of the petitioner could be dispensed with at any time without any notice. Thus he prays for dismissal of the writ petition.

5. It is not in dispute that the petitioner is working in the 3rd respondent – School as Temporary Teacher pursuant to Annexure-A dated 26.10.1988. Vide Annexure-D dated 14.11.2016 the petitioner was asked not to enter the School Premises till the BEO passes further order, since the petitioner disobeyed the directions issued in the enquiry held on 11.11.2016. Report of enquiry held on 11.11.2016 is placed on record vide Annexure-R2 along with the affidavit dated 11.08.2017. The impugned notice Annexure-D nor Annexure-R2 would indicate any opportunity of hearing afforded to the petitioner. A temporary employee could be terminated in terms of the conditions of order of appointment. But before taking any adverse action

against such temporary employee, he would be entitled for at least a notice. Annexure-D dated 14.11.2016 directing the petitioner not to enter the school premises is issued in total violation of principles of natural justice. It is a punitive order which requires at least issuance of notice giving an opportunity to the petitioner to explain his conduct. Any order which results in civil consequences requires to be passed by following principles of natural justice. Thus I am of the view, that only on the ground of violation of principles of natural justice Annexure-D requires to be quashed.

6. Accordingly, the writ petition is ***allowed.*** Annexure-D dated 14.11.2016 is quashed with liberty to the respondent to pass fresh order, if so advised after affording reasonable opportunity to the petitioner to have his say.

Sd/-
JUDGE

NG* CT:bms