

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.3169 and 3388 of 2020

COMMON ORDER:

Challenging the order dated 17.01.2020 passed by the Secretary to Government – cum – Appellate Authority under the Education Act, the Management of the Educational Institution as well as the Assistant Professor are before this Court in these two writ petitions.

2. Suffice to note, at this stage, the disciplinary proceedings were initiated against the Assistant Professor on the allegations of intemperate behaviour with faculty, resulting in imposing punishment of dismissal from service. Aggrieved by the said order, the Assistant Professor preferred an appeal before the Government. Vide the order impugned the appellate authority issued the following directions:

The appellate authority directs the Commissioner of Technical Education to continue the petitioner as Assistant Professor in the service of the Mahatma Gandhi Institute of Technology and also directs the Commissioner of Technical Education to inform the Management of the Institute to keep the petitioner under the keen observation of the Management for a period of one year and to take appropriate action following due process of law if her behaviour and conduct is detrimental to the functioning of the Institution.

3. This order is challenged by the Management on the ground that though the appellate authority records the contentions of the Management and the Assistant Professor, it does not record reasons as to why the respective submissions are not valid but straightway proceeds to give directions. Therefore, the order is not a reasoned order.

4. Sri V. Mallik, learned counsel, appearing for the learned counsel for the Assistant Professor has taken the Court through the various stages of the disciplinary proceedings and contended that the charge memo was not properly drafted. It does not contain the statement of allegations and imputations and the domestic enquiry was not properly conducted. He would submit that in spite of raising objections, the objections were not considered and finding was recorded in the perfunctory enquiry holding the charge as proved. Based on the said finding punishment was imposed without taking into consideration the objections filed. He would submit that all these contentions were urged before the Appellate Authority but the Appellate Authority has not examined the contentions. He would submit that the order of the Appellate Authority directing the Management to keep the Assistant Professor under keen observation for a period of one year and to take appropriate action is *ex facie* illegal.

5. In other words, both the parties are aggrieved by the order passed by the Appellate Authority. The Management is aggrieved since the punishment imposed by the Management was set aside by the Appellate Authority and the Assistant Professor is not satisfied with a further direction issued to observe the petitioner's conduct and to take appropriate action.

6. On going through the order passed by the Appellate Authority, the Court is convinced that there is no discussion on the respective submissions made before the Appellate Authority and therefore, it is not a speaking order. An order of quasi-judicial authority must contain reasons in support of the decision and should record reasons why submissions made by party/parties are not tenable. Therefore, the order impugned is liable to be set aside on this ground alone.

7. The powers of Appellate Authority are very wide. He is competent to set aside the punishment imposed/remand the matter to the disciplinary authority for further enquiry/modify the punishment imposed/confirm the punishment imposed but while setting aside the punishment, the Appellate Authority cannot give direction to keep the employee under observation. It is not within the competence of Appellate Authority. Therefore, the observation made by the Appellate Authority is also not valid in law.

8. Therefore, the writ petitions are allowed. The order impugned is set aside. The matter is remanded to the Appellate Authority for consideration of the appeal afresh and passing orders, on due consideration of the respective submissions, giving due reasons in support of the decision. The decision shall be made within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

February 19, 2020
DSK

P. NAVEEN RAO, J