

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**  
(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY

**PRESENT**

**THE HONOURABLE SRI JUSTICE P. NAVEEN RAO**

**WRIT PETITION NO: 14204 OF 2020**

**Between:**

1. Smt.Sarada Dev, W/o K.V.Mohan, aged. 59 years, Occ. Retired
2. K.Kalyan Krishna, S/o K.V.Mohan, aged. 32 years, Occ. Student,
3. K Shivarama Krishna, S/o K.V.Mohan, aged.30 years, Occ. Student,

All 1 to 3 R/o H.No.9-1-91/92/101, Raghava Apartments, Beside Sangeet Theatre, SD Road, Secunderabad-3. All 1 to 3 Rep. by Sri.V.Narayan Meher, S/o Late Sri.V.Laxmaiah Meher, Aged 70 years. Occ. Retd. Postal Accountant, R/o H.No.29-152, New Vidya Nagar Colony, Neredmet, RK Puram Post, Sec' bad-500 056

**...PETITIONERS**

**AND**

1. The State of Telangana, Rep. by its Principal Secretary, Education Department, Secretariat, Hyderabad.
2. The Commissioner of School Education, State of Telangana, Hyderabad.
3. The District Educational Officer, Ex-officio DPO, SSA, Kamareddy Dist.
4. The Mandal Education Officer, Birkur Mandal, Kamareddy District
5. The Head Master, UPS, Kistapur Village, Birkur Mandal, Kamareddy Dist.
6. The Accountant General, (A and E), State of Telangana, AG Office, Opp. Birla Temple, Hyderabad.
7. The Deputy Director, District Treasury Office, Kamareddy District.
8. K.V.Mohan (Kandre Vavanjari Mohan), S/o Gangadhar, Aged.57 years, Occ. Teacher, Upper Primary School, Kistapur Village, Birkur Mandal, Kamareddy Dist. R/o Rudrur Village, Nizamabad Dist- 503 188

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass order or direction one in the nature of Writ of Mandamus or any suitable Writ thereby declare the inaction of the Respondents Nos.1 to 4 is illegal, arbitrary, unconstitutional, null and void and direct the Respondent No.1 to 7 to deduct a sum of Rs.26 lakhs from the retirement settlement amount of Respondent No.8 and pay to the Petitioner No.1.

**IA NO: 1 OF 2020**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent Nos.1 to 7 to with hold the payment of retirement benefits of Respondent No.8 pending disposal of the main writ petition.

Counsel for the Petitioner : SRI MEHER SHRAVAN KUMAR

Counsel for the Respondent Nos.1 to 5: GP FOR SERVICES-I FOR  
GP FOR SCHOOL EDUCATION

Counsel for the Respondent Nos.6 to 7: GP FOR GAD

Counsel for the Respondent No.8: GP FOR EDUCATION

The Court made the following: ORDER

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**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.14204 of 2020**

**ORDER:**

Heard learned counsel for the petitioners and learned Government Pleader appearing for respondents.

2. The 1<sup>st</sup> petitioner is the wife of 8<sup>th</sup> respondent in the writ petition and petitioners 2 and 3 are the children of 1<sup>st</sup> petitioner and 8<sup>th</sup> respondent. On attaining the age of superannuation, 8<sup>th</sup> respondent retired from service with effect from 31.08.2020. There are family disputes between first petitioner and 8<sup>th</sup> respondent and petitioners filed M.C.No.30 of 2003 in the Court of Judicial Magistrate of First Class at Bodhan, claiming maintenance. The learned Magistrate by order dated 19.03.2004, dismissed the application against 1<sup>st</sup> petitioner and partly allowed the application filed by petitioners 2 and 3 granting maintenance of Rs.1000/- per month and directed 8<sup>th</sup> respondent to pay maintenance every month on or before 10<sup>th</sup> in the form of money order.

3. According to petitioners for few months the amount was paid, but thereafter the 8<sup>th</sup> respondent stopped making payments.

4. Having come to know that the 8<sup>th</sup> respondent is retiring from service on attaining the age of superannuation and that he would be getting pensionary benefits, this writ petition is filed to direct the respondent-employer to withhold the amounts due and payable to petitioners 2 and 3 from the retirement benefits payable by the 8<sup>th</sup> respondent.

5. In other words, petitioners are seeking implementation of the directions issued in M.C.No.03 of 2003 against the employer who was not a party to the said case.

6. As fairly submitted by learned counsel for the petitioners no steps were taken for enforcement of the directions issued by learned Magistrate. He submits that since 8<sup>th</sup> respondent assured that the amounts would be paid and believing his version no steps were taken and if the amounts are now released to the 8<sup>th</sup> respondent, it would be difficult for petitioners to recover the amounts and in such a case grave prejudice would be caused.

7. As employer was not a party to the M.C., and unless the employee consents or specifically authorizes for deduction of any amounts due by him, the employer cannot deduct the amount. Therefore, the direction sought to withhold/deduct the amounts from the retirement benefits payable to the 8<sup>th</sup> respondent cannot be issued in the writ petition.

8. Thus, the Writ Petition is dismissed leaving it open to the petitioners to work out their remedies as available in law, with reference to the claim for maintenance by petitioners 2 and 3 against 8<sup>th</sup> respondent. Pending miscellaneous petitions, if any, shall stand closed.

SD/-K.SAILESHI  
ASSISTANT REGISTRAR  
SECTION OFFICER

//TRUE COPY//

To,

1. One CC to Sri Meher Shravan Kumar, Advocate [OPUC]
2. Two CCs to GP for Services-I, High Court for the State of Telangana at Hyderabad (OUT)
3. Two CCs to GP for School Education, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CCs to GP for GAD, High Court for the State of Telangana at Hyderabad (OUT)
5. Two CCs to GP for Education, High Court for the State of Telangana at Hyderabad (OUT)
6. Two CD Copies

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HIGH COURT

DATED:02/09/2020

ORDER

WP.No.14204 of 2020



DISMISSING THE WP  
WITHOUT COSTS

11  
8/9/20  
HVR