

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

TUESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO: 10254 OF 2021

Between:

Mercy Cleoni Bhagya Devi, D/o.Joshva, Age. 73 years , Occ. S A, Rtd,
R/O. R.No.18-97/52,Plot No.40, Rowa Colony,Adarshanagar, Road no 2,
Peerzadiguda , Hyderabad ,Telangana.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, School Education Department, Secretariat, Telangana State, Hyderabad.
2. The Commissioner and Director of School Education, Telangana State, Hyderabad.
3. The District Educational Officer, Karimnagar District.
4. The Correspondent/ Secretary, Gandhi Centurian TM High School, Karimnagar District.

...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 issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the inaction of the Respondent authorities with regard to not reckoning the unaided service rendered by the petitioners w.e.f. 01/08/1974 to 01/08/1989 respectively for the purpose of Career Advancement Scheme and Automatic Advancement Scheme, in terms of Judgment passed in W.P.No.3460 of 2010 and batch dated 23/08/2017 by declaring the inaction is illegal, arbitrary and violative of rights guaranteed under Article 14, 16 and 21 of the Constitution of India and revise the Pay of the Writ Petitioner.

IA NO: 1 OF 2021

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 Authorities to reckon the unaided service of the petitioner with effect from w.e.f. 01-08-1974 to 01-09-1989 for the purpose of Career Advancement Scheme and Automatic Advancement Scheme in pursuant to the Judgment rendered in W.P.No.3460 of 2010 and batch dated 23.08.2017 and revise the pay of the Writ Petitioner.

Counsel for the Petitioner : SRI P. V. SAI KRISHNA

Counsel for the Respondent Nos.1 to 3: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.4:-----

The Court made the following: ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10254 of 2021

ORDER:

When the matter is taken up for hearing, learned counsel on either side fairly conceded that the issue involved in this writ petition is squarely covered by the common order dated 23.08.2017 passed by this Court in W.P.No.3460 of 2010 and batch.

Following the common order dated 23.08.2017 in W.P.No.3460 of 2010 and batch, this Writ Petition is disposed of. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

//TRUE COPY//

SD/-I.NAGALAKSHMI
ASSITANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, School Education Department, State of Telangana, Secretariat, Telangana State, Hyderabad.
2. The Commissioner and Director of School Education, Telangana State, Hyderabad.
3. The District Educational Officer, Karimnagar District.
4. The Correspondent/ Secretary, Gandhi Centurian TM High School, Karimnagar District.
5. One CC to Sri P. V. Sai Krishna, Advocate [OPUC]
6. Two CCs to GP for School Education, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies
8. One Spare Copy

(A long with a copy of order dt:23/08/2017 in W.P.No.3460 of 2010 and Batch)

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anv



HIGH COURT

DATED:29/06/2021

ORDER

WP.No.10254 of 2021



DISPOSING OF THE WP,
WITHOUT COSTS.

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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

**Writ Petition Nos.3460 and 3429 of 2010, 27810 of 2007 and 1107,
2927, 18949 and 23884 of 2008**

Common Order: [Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan]

In all these writ petitions, the constitutional validity of the Andhra Pradesh Private Aided Educational Institutions Employees (Regulation of Pay) Act, 2005 (hereinafter called "the 2005 Act"), especially re-introducing Sub-Section (2) of Section 1, Section 3 and Sections 4(1) and 4(2), is questioned as being illegal, arbitrary and unconstitutional, contrary to the undertaking given before this Court in W.P. No. 3849 of 2001 and batch, and to declare that the petitioners are entitled for release of the revised Pay Scales, 2005 in terms of the proceedings dated 16.12.2005 and 31.12.2005 issued by the District Educational Officer, Nalgonda.

Before the 2005 Act was enacted and brought into force with effect from 29.10.2005, the Governor of Andhra Pradesh had issued the A.P. Private Educational Staff (Regulation of Pay) Ordinance No. 3 of 2005 (hereinafter called "the 2005 Ordinance"). The said Ordinance stood repealed by Section 7 of the 2005 Act.

The validity of the 2005 Ordinance was the subject matter of challenge in **Y. Sidda Reddy vs. Government of Andhra Pradesh & Others**¹ and a Division Bench of this Court, while upholding the vires of Section 3 of the 2005 Ordinance, declared Section 4(1) of the 2005 Ordinance unconstitutional, and as being irrational and arbitrary. The Division Bench held that, except in so far as

¹ 2006 (3) ALD 546 (DB)

the 2005 Ordinance dealt with the aspect of pension, the rest of the Ordinance was unconstitutional. In effect, the validity of the 2005 Ordinance, in so far as it related to pension, was upheld and the rest of the 2005 Ordinance was declared unconstitutional.

Both the learned Advocate General appearing on behalf of the State of Andhra Pradesh, and the learned Special Government Pleader appearing on behalf of the learned Advocate General for the State of Telangana, would fairly state that the 2005 Act is a verbatim extract of the 2005 Ordinance. If that be so, the very same reasons which weighed with the Division Bench in declaring the 2005 Ordinance unconstitutional, except in so far as it dealt with the aspect of pension, must be applied with respect to the vires of the 2005 Act also. Following the law declared by the Division Bench in **Y. Sidda Reddy¹**, the 2005 Act, except in so far as it dealt with the aspect of pension, is also declared to be unconstitutional. The validity of the 2005 Act, in so far as it dealt with the aspect of pension, is upheld.

All the writ petitions are, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

23rd August, 2017
pnb