

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

**MONDAY, THE TWENTY SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 7378 OF 2022

Between:

1. Vaidik Dharma Prakashika (Marathi), Primary School, Shalibanda, Hyderabad
rep. by its Correspondent Sri Lavraj J Bhalerao
2. Vaidik Dharma Prakashika (English), Primary School, Shalibanda, Hyderabad
rep. by its Correspondent Sri Lavraj J Bhalerao
3. Vaidik Dharma Prakashika (Marathi), High School, Shalibanda, Hyderabad
rep. by its Correspondent, Sri Lavraj J Bhalerao

...PETITIONERS

AND

1. The State of Telangana, Represented by its Principal Secretary, School
Education Department, Telangana Secretariat, Hyderabad.
2. The State of Telangana, Represented by its Principal Secretary, Finance and
Planning Department, Telangana Secretariat, Hyderabad
3. The Commissioner and Director of School Education, Saifabad, Hyderabad.
4. The Regional Joint Director of School Education, Hyderabad Region,
Hyderabad.
5. The District Educational Officer, Hyderabad 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 a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not permitting the petitioner schools for filling up of the 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non teaching Posts in High School (3rd petitioner school) which has fallen vacant due retirement and promotions, under the guise of ban imposed by the Government Memo No.12080/COSE/A2/2004-4

Dated.20.10.2004, which was declared illegal, arbitrary, discriminatory, against the principles of natural justice and violative of Articles 14, 19(1)(g), 21-A and 45 of the Constitution of India, apart from the provisions of the Right of Children to Free And Compulsory Education Act 2009 and Consequently direct the respondents to accord permission to the petitioner school for filling up of the 12 Aided Secondary Grade Teacher Posts in Primary Schools and 9 Teaching and Non teaching Posts in High School (3rd petitioner school) in clear vacant aided posts in terms of G.O.Ms.No.1 Education Department Dated. 1.1.1994.

IA NO: 1 OF 2022

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 respondents to forthwith accord permission to the petitioner schools for filling up of the 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non teaching Posts in High School (3rd petitioner school), in terms of G.O.Ms. No. 1 Education Department Dated.1.1.1994, pending disposal of the writ petition.

Counsel for the Petitioners: SRI GANGISETTY RAJESWARA RAO

Counsel for the Respondent Nos.1, 3 to 5: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.2: GP FOR FINANCE AND PLANNING

The Court made the following: ORDER

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.7378 OF 2022

ORDER:

Heard Sri Gangisetty Rajeswara Rao, learned counsel appearing on behalf of the petitioners and learned Government Pleader for School Education appearing on behalf of the respondent Nos.1, 3 to 5 and learned Government Pleader for Finance and Planning appearing on behalf of respondent No.2.

2. The petitioners approached this Court seeking the relief as under:

"To issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not permitting the petitioner schools for filling up of the 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non teaching Posts in High School (3rd petitioner school) which has fallen vacant due retirement and promotions under the guise of ban imposed by the Government Memo No 12080/COSE/A2/2004-4 Dated 20. 10.2004, which was declared illegal, arbitrary, discriminatory against the principles of natural justice and violative of Articles 14, 19(1)(g) 21-A and 45 of the Constitution of India apart from the provisions of the Right of Children to Free And Compulsory Education Act 2009 and Consequently direct the respondents to accord permission to the petitioner school for filling

up of the 12 Aided Secondary Grade Teacher Posts in Primary Schools and 9 Teaching and Non teaching Posts in High School (3rd petitioner school) in clear vacant aided posts in terms of G.O.Ms.No.1 Education Department Dated 1.1.1994 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners are entitled for filing up of 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non Teaching Posts in High School (3rd petitioner school), through regular recruitment procedure as contemplated under Rule 12 and 13 of the Telangana Educational Institutions (Establishment, Recognition, Administration and control of schools under Private Management) issued in G.O.Ms.No.1 Education Department dated 01.01.1994 as per the orders passed by this Court on 08.06.2021 in W.P.No.22853 of 2019 which had been upheld by Division Bench of this Court passed in W.A.No.459 of 2021, dated 24.11.2022 and also the Apex Court Judgment dated 09.01.2024 passed in SLP.No.3681 of 2023.

4. Learned counsel for the petitioners submits that the petitioners may be directed to make a fresh representation

seeking a request to the respondents to permit the petitioners Schools for filling up of 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non Teaching Posts in High School (3rd petitioner school) which are fallen vacant due to retirement and promotions of teachers, who were working in the petitioner schools, through regular recruitment procedure as contemplated under Rule 12 and 13 of the Telangana Educational Institutions (Establishment, Recognition, Administration and control of schools under Private Management) schools and the same may be considered by the respondents in accordance to law as per the rules as on date within a reasonable period.

5. Learned Assistant Government Pleader for School Education appearing on behalf of the respondents submits that upon the petitioners making a fresh representation seeking the said relief, the same would be considered by the respondents in accordance to law.

6. Taking into consideration the aforesaid submissions put forth by both the learned counsel on record, the Writ Petition is disposed of directing the petitioners to make a fresh representation within one week from today requesting the

respondents to permit the petitioner schools for filling up of 12 Aided Secondary Grade Teacher Posts in Primary School and 9 Teaching and Non Teaching Posts in High School (3rd petitioner school) which are fallen vacant due to retirement and promotions of the teachers, who were working in the petitioner schools, through regular recruitment in accordance to law as per the rules in force as on date. Upon the petitioners making the said representation within one week from today, the respondents are directed to consider the same within two weeks thereafter and pass appropriate orders, in accordance to law and duly communicate the decision to the petitioner. No costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

SD/-MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, School Education Department, Telangana Secretariat, The State of Telangana, Hyderabad.
2. The Principal Secretary, Finance and Planning Department, Telangana Secretariat, The State of Telangana, Hyderabad
3. The Commissioner and Director of School Education, Saifabad, Hyderabad.
4. The Regional Joint Director of School Education, Hyderabad Region, Hyderabad.
5. The District Educational Officer, Hyderabad District.
6. One CC to Sri Gangisetty Rajeswara Rao, Advocate [OPUC]
7. Two CCs to GP for School Education, High Court for the State of Telangana, at Hyderabad[OUT]
8. Two CCs to GP for Finance and Planning, High Court for the State of Telangana, at Hyderabad [OUT]
9. Two CD Copies

T J
GJP

HIGH COURT

DATED:26/02/2024

ORDER

WP.No.7378 of 2022



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.**

(13)
mBC
28/03