

**(SHOW CAUSE NOTICE BEFORE ADMISSION)**  
**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI**  
**(SPECIAL ORIGINAL JURISDICTION)**  
WEDNESDAY, THE TENTH DAY OF MAY  
TWO THOUSAND AND TWENTY THREE



**:PRESENT:**

**THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**  
**WRIT PETITION NO: 12611 OF 2023.**

**Between:**

G. Vijaya Lakshmi, W/o. G. Lakshmi Narasimha Rao, aged about 69 years, Occ:  
Retired School Assistant, Port High School-II (Aided), Krishna Salagramapuram,  
Visakhapatnam District, R/o. Flat No. 203, 1<sup>st</sup> Floor, City Paradise Apartment-I,  
Chaitanya Nagar, Maddilapalem, Visakhapatnam District - 530013.

... Petitioner ✓

**AND**

1. The State of Andhra Pradesh, represented by its Principal Secretary, School Education Department, Secretariat, Velagapudi, Amaravathi at Vijayawada.
2. The Principal Accountant General (A & E), Andhra Pradesh, Stalin Central Mall, Door No. 27-37-158, 6<sup>th</sup> & 7<sup>th</sup> Floor, M.G. Road, Governorpet, Vijayawada - 520002.
3. The Director of Treasuries and Accounts Cum Chief Executive Officer, Comprehensive Financial Management System (CFMS), Anjaneya Towers, 6<sup>th</sup> Floor, Ibrahim Patnam, Vijayawada - 521456.
4. The District Educational Officer, Visakhapatnam, Visakhapatnam District.
5. The District Treasury Officer, Visakhapatnam, Visakhapatnam District.
6. The Assistant Treasury Office/Sub Treasury Office, Seethammadhara, Visakhapatnam District.
7. The Correspondent/Special Officer, Port High School-II (Aided), Krishna Salagramapuram, Visakhapatnam District.

✓ ....Respondents

WHEREAS the Petitioner above named through her Advocate Sri. A.V.V.S. Bhujanga Rao, presented this 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,

a) to declare the action of Respondents in not extending/ sanctioning the benefit of pay fixation and automatic advancement scheme benefit by taking into considering of petitioner's entire service including un-aided service from the date of initial appointment till admit their post into aided ( i.e., from **07-09-1977 to 31-10-1989**) even after struck down of Act, 37 of 2005 dated 29-10-2005 by Hon'ble High Court in W.P. No. 3460 of 2010 and batch Dated. 23-08-2017 passed keeping in view of law laid down in earlier judgment of this Hon'ble High Court in Y. Sidda Reddy Vs. Government of Andhra Pradesh reported in 2006 3 ALD 546 is as illegal arbitrary and unconstitutional; and

b) to declare that the action of the respondents in not giving actual effect to the consequentiality of the judicial declaration by not extending the benefits arising there



from and take shelter of an un-constitutional statute i.e., Act. 37 of 2005 which has no force or validity and trying to run away from their responsibility on mere technical ground that there is no specific direction in judicial pronouncement (Writ petition No. 3460 of 2010 and Batch dated. 23-08-2017) to extend benefit of pay fixation and automatic advancement scheme benefit by taking into consideration of the entire unaided service from the date of initial appointment till admit their post into Grant-in-Aid as is illegal, arbitrary, unethical and unconstitutional; and

c) to, declare the action of the respondents in recovered an amount of **Rs. 6,12,752/-** from petitioner's retirement/pensionary benefit that too after his/her retirement as excess pay and allowances due to re-fixation under act 37 of 2005 in spite of law laid down by this Hon'ble Supreme Court in State of Punjab and others Vs Rafiq Masih (White Washer) and Others reported in 2015 4 SCC 334 and in Syed Abdul Qadir and others Vs State of Bihar and others reported in 2009 3 SCC 475 and the division bench judgment of Hon'ble High Court of state of Telangana in W.P. No. 32896 of 2013 and batch is as illegal arbitrary and unconstitutional; and

d) to consequently **declare that the petitioner is entitled** for consideration of the entire service including un-aided service from the date of initial appointment till admit their post into aided (i.e., from **07-09-1977 to 31-10-1989**) for the purpose of pay fixation, career/Automatic advancement Scheme and pension by restoring last pay drawn (where un-aided service benefits included) in view of struck down of Act, 37 of 2005 dated 29-10-2005 by this Hon'ble High Court in W.P. No. 3460 of 2010 and batch Dated. 23-08-2017 passed keeping in view of law laid down in earlier judgment of this Hon'ble High Court in Y. Sidda Reddy Vs. Government of Andhra Pradesh reported in 2006 3 ALD 546 and **also direct the respondents** to re-calculate/re-fix and sanction the pension and pensionary benefits by considering the entire service including un-aided service from the date of initial appointment till admit their post into aided ( i.e., from **07-09-1977 to 31-10-1989**) for the purpose of pay fixation, career/Automatic advancement Scheme benefits within stipulated time along with interest @18% per annum from the date of recovery till such payment is actually made; and

e) and further direct the respondents to refund/return the entire recovered amount of **Rs. 6,12,752/-** within stipulated time along with interest @18% per annum from the date of recovery till such payment is actually made as per law laid down by this Hon'ble Supreme Court in State of Punjab and others Vs Rafiq Masih (White Washer) and Others reported in 2015 4 SCC 334 and in Syed Abdul Qadir and others Vs State of Bihar and others reported in 2009 3 SCC 475 and the division bench judgment of Hon'ble High Court of state of Telangana in W.P No. 32896 of 2013 and batch;

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri. A.V.V.S. Bhujanga Rao, Advocate for the Petitioner, learned GP for Higher Education for respondent Nos.1,4 & 7, learned GP for Finance for respondent Nos.3,5 & 6 and Smt. Swarna Seshu, Standing Counsel for respondent No.2, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.



You viz:

1. The Principal Secretary, State of Andhra Pradesh, School Education Department, Secretariat, Velagapudi, Amaravathi at Vijayawada.
2. The Principal Accountant General (A &E), Andhra Pradesh, Stalin Central Mall, Door No. 27-37-158, 6<sup>th</sup> & 7<sup>th</sup> Floor, M.G. Road, Governorpet, Vijayawada - 520002.
3. The Director of Treasuries and Accounts Cum Chief Executive Officer, Comprehensive Financial Management System (CFMS), Anjaneya Towers, 6<sup>th</sup> Floor, Ibrahim Patnam, Vijayawada - 521456.
4. The District Educational Officer, Visakhapatnam, Visakhapatnam District.
5. The District Treasury Officer, Visakhapatnam, Visakhapatnam District.
6. The Assistant Treasury Office/Sub Treasury Office, Seethammadhara, Visakhapatnam District.
7. The Correspondent/Special Officer, Port High School-II (Aided), Krishna Salagramapuram, Visakhapatnam District.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

**The Court made the following ORDER**

**"Notice before admission.**

**Learned Government Pleader for School Education takes notice on behalf of respondent Nos. 1, 4, & 7.**

**Learned Government Pleader for Finance & Planning takes notice on behalf of respondent Nos. 3, 5 & 6.**

**Smt. Swarna Seshu, learned standing counsel, takes notice on behalf of the 2<sup>nd</sup> respondent.**

**List the matter on 15.06.2023, in regular list, along with W.P.Nos.12495, 12577, 12582, 12585, 12586, 12589, 12597 & 12600 of 2023.**

**In the meanwhile, learned counsels for the respondents are directed to file counters.**

**Registry is directed to print the names of learned Government Pleader for School Education and Smt. Swarna Seshu, learned standing counsel."**

**//TRUE COPY//**

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A  
Sd/- M. PADMALATHA  
ASSISTANT REGISTRAR  
For  
SECTION OFFICER

To,

1. The Principal Secretary, State of Andhra Pradesh, School Education Department, Secretariat, Velagapudi, Amaravathi at Vijayawada.
2. The Principal Accountant General (A &E), Andhra Pradesh, Stalin Central Mall, Door No. 27-37-158, 6<sup>th</sup> & 7<sup>th</sup> Floor, M.G. Road, Governorpet, Vijayawada - 520002.
3. The Director of Treasuries and Accounts Cum Chief Executive Officer, Comprehensive Financial Management System (CFMS), Anjaneya Towers, 6<sup>th</sup> Floor, Ibrahim Patnam, Vijayawada - 521456.
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6. The Assistant Treasury Office/Sub Treasury Office, Seethammadhara, Visakhapatnam District.
7. The Correspondent/Special Officer, Port High School-II (Aided), Krishna Salagramapuram, Visakhapatnam District. (Addressees Nos.1 to 7 by RPAD- along with a copy of petition and affidavit)
8. One CC to SRI. A V V S BHUJANGA RAO Advocate [OPUC]
9. Two CCs to GP FOR FINANCE, High Court of Andhra Pradesh. [OUT]
10. Two CCs to GP FOR SERVICES III, High Court of Andhra Pradesh. [OUT]
11. One CC to Smt. Swarna Seshu, Standing Counsel [OPUC]
12. One spare copy

KJ



**HIGH COURT**

**NV,J**

**DATED:10/05/2023**

**NOTE: List the matter on 15.06.2023, in regular list, along with W.P.Nos.12495, 12577, 12582, 12585, 12586, 12589, 12597 & 12600 of 2023.**

**NOTICE BEFORE ADMISSION**

**WP.No.12611 of 2023**

