



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3330]

THURSDAY ,THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO
WRIT PETITION NO: 12539/2024

Between:

Sunitha Upper Primary School

...PETITIONER

AND

The State Of A.P and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1. Y JAYA RAJU

Counsel for the Respondent(S):

1. GP FOR SCHOOL EDUCATION

The Court made the following:

ORDER:-

This Writ Petition is filed under Article 226 of Constitution of India for the following relief/s:-

"...pleaded to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not granting permission to the petitioner institution to fill up the vacant aided posts as per G.O.Ms.No.40 dated 30.06.2017 and consequential proceedings in RC.No.90/PS-1/2010-3 dated 20.07.2017 inspite of the repeated representations dated 23.04.2022 and 12.02.2024 which were received by the 3rd respondent on 25.04.2022 and 12.02.2024 respectively and as well as per the orders of this Honble Court passed in WP No.6747 of 2014 as being arbitrary and in violation of Articles 14 and 19 of the Constitution of India and consequently direct the 2nd and 3rd respondents herein to permit the petitioners institution to fill up the

vacant aided posts as per G.O.Ms.No.40 dated 30.06.2017 and consequential proceedings in RC.No.90/PS-1/2010-3 dated 20.07.2017 in the light of the orders passed by this Honble Court in W.P.No.30927 of 2022 and batch dated 05.01.2023 and to pass such other order or orders....”

2. Heard learned counsel for the petitioner and learned counsel for the respondents.

3. At the outset, it is the contention of the learned counsel for the petitioner that the respondents are not granting permission to the petitioner's institution to fill up vacant aided posts as per G.O.Ms.No.40, dated 30.06.2017 and consequential proceedings in Rc.No.90/PS-1/2010-3, dated 20.07.2017.

4. The petitioner's school was established in the year 1985 as primary school under the name and style Sunitha Primary School, Joharapuram, to run class I to V and later it was upgraded into upper primary school in the year 1996 *vide* proceedings in Rc.No.12370/A.7/95 dated 28.03.1996. They are imparting education to the needy poor, weaker sections and slum dwellers without collecting any fee and the petitioner school was admitted into grant-in-aid with effect from 01.10.2002.

5. Accordingly, the 3rd respondent issued proceedings dated 18.06.2003 absorbing two secondary grade teachers into service and

remaining three S.G.Asst., posts admitted into grant-in-aid are vacant due to resignation of the teachers due to personal problems. Thus, there are three clear vacant grant-in-aid posts of secondary grade teachers in the petitioner school with effect from 01.10.2002 and the 3rd respondent renewed the recognition of the school *vide* proceedings dated 18.12.2009 upto the academic year 2018-19. Thereafter, the Government banned recruitment in the aided private management schools by issuing memo dated 20.10.2004 imposing ban on recruitment of staff in aided institutions. Assailing the said memo, several writ petitions were filed by the private aided management schools and the said memo was set aside by this Court by an order dated 30.07.2013 and the same was confirmed by the Hon'ble Apex Court.

6. Further contention of the learned counsel for the petitioner is that the Government issued G.O.Ms.No.40 dated 30.06.2017 and in pursuance to the said G.O., the Commissioner of School Education issued proceedings dated 20.07.2017 directing all the Regional Joint Directors of School Education and D.E.Os., to take necessary action permitting the aided institutions to fill up all the vacant posts in the schools and pursuant to the said proceedings all the institutions requested the competent authorities to permit them to fill up the vacant posts. Subsequently, as per the instructions of the Government, the

2nd respondent once again issued proceedings dated 12.09.2017 keeping the recruitment in abeyance. Subsequently, the said proceedings were challenged in W.P.No.1041 of 2018 and this Court suspended the said abeyance proceedings, *vide* orders in I.A.No.1 of 2018 in W.P.No.1041 of 2018, dated 29.02.2020. Thereafter, all the petitioners-institutions made several applications to the Competent authorities seeking permission to fill up vacancies in Aided Schools. Till now, the Competent-authorities did not take any decision or granted permission to fill the vacancies in Aided Schools. Aggrieved by the same, this writ petitioner is filed.

7. This Court disposed of the batch of writ petitions by way of common order dated 05.01.2023 in W.P.Nos.30927 of 2022 and batch in the following manner:

“....9. In view of the above stand taken by the Government, all the Writ Petitions are disposed of with the following directions:

- i. *The respondent-authorities are hereby directed to permit the petitioners-institutions to fill up all the Aided vacancies in terms of G.O.Ms.No.1, Education, dated 01.01.1994 and also as per the Schedule prescribed under Sections 19 & 25 of the Act,2009;*
- ii. *In future also, whenever vacancies arise, the institutions have to make applications to the Competent authorities for filling up the vacancies;*
- iii. *On such applications, the Competent authorities shall inform the institution about the availability of qualified surplus staff, within a period of four (04) weeks from the date of application and allot said surplus staff on permanent basis;*

- iv. *If surplus staff are not available, the Competent authority shall inform the same and permit the petitioners institutions to fill up the vacancies in accordance with the above said Rule, preferably within a period of two (02) months;*
- v. *So far as minority institutions are concerned, the above procedure is not applicable insofar as allotment of surplus staff are concerned, in view of the Judgments of Division Bench of this Court rendered in **Modern High School, Zamisthanpur V. Government of Andhra Pradesh and Others**¹ and **Ester Axene Res. High School and Others V. State of Andhra Pradesh and Others**².*
- vi. *The entire exercise shall be completed by the respondent-authorities within a period of three (03) months from the date of receipt of a copy of this order;..”*

8. The learned counsel for the respondents not disputed the orders of this Court passed by way of common order in W.P.Nos.30927 of 2022 and batch, dated 05.01.2023.

9. In view of the said contentions, this Court is of the view that the prayer in the present writ petition and the prayer in the batch of writ petitions is one and same. Hence, this Court is inclined to dispose of the present writ petition directing the respondents to pass appropriate orders, keeping in view the guidelines prescribed by this Court in W.P.Nos.30927 of 2022 and batch, dated 05.01.2023, which are extracted in this order.

¹ 2002 (1) ALD 96

² MANU/AP/0045/2019

10. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHARA RAO

Date:27.06.2024
KBN

143

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHARA RAO**WRIT PETITION No.12539 of 2024****Date:27.06.2024****KBN**