
(1996) 01 KAR CK 0049

In the Karnataka High Court

Case No : Writ Petition Nos. 12323, 12324 and 12324-A to 12324-F of 1995

Bharathi Education Society, Kittadal, Hosadurga Taluk,
Chitradurga District and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Citation : (1997) 1 KarLJ 681

Hon'ble Judges : M. F. Saldanha, J

Judgement

1. Heard learned Advocates. In the circumstances of this case, it is necessary to issue a preliminary direction namely that the office shall renumber this group of Petition Nos. as 12323 and 12324 and thereafter add on six more numbers being 324-A to F because this is a composite - petition praying for relief in respect of all the 8 petitioners. The petitioners learned Advocate shall accordingly tender to the office within a period of four weeks from today the deficit Court fee in respect of six petitions and shall also furnish to the learned Government Advocate six more copies of the petition for completion of the record in the learned Government Advocate's office. The group shall accordingly consist of 8 petitions and not 2 petitions. If these requisitions are not complied with, the office shall not furnish the final orders to the petitioners.

2. The short controversy that falls for determination is with regard to an aspect of mala fides that had been alleged against the 4th respondent who is a sitting M.L.A. The petitioner-Institution had been representing that it should be admitted to the grant-in-aid and the Government after perusing the file had decided to admit the institution with effect from the academic year 1994-95. It appears that due to certain local problems despite the representations on behalf of the petitioners. That the M.L.A. who respondent 4 in question succeeded in deferring the passing of orders as a result of which the same came to be passed only in December 1995. Respondent 4 has not denied these allegations. Petitioners learned Advocate has demonstrated to me from the record that but

for this intervention which ought not to have taken place, that the institution would have received the amounts with effect from the previous academic year. It is for this reason that an interim order was passed by this Court directing the respondents to set apart the amount of Rs. 2.59 lakhs.

3. The petitioners learned Advocate submitted that in the facts and circumstances of this case and particularly having regard to an earlier decision of this Court in the case of *Fathima Unnisa v State of Karnataka and Others*, 1995(5) Kar. L.J. 660, that this Court must direct reimbursement of the salary of petitioners 3 to 7 with effect from the dates of the approval of their appointments and grant-in-aid from the year 1994-95 onwards. As far as the first prayer is concerned, I am not inclined to grant it because among other things the petition has been filed at a very late stage and secondly because the petitioners are entitled to a relief under the second head which to my mind will take care of the problem. The learned Government Advocate has submitted that the order in question should take effect from December 1995 namely the date on which the Government finally decided to admit the petitioners to grant-in-aid. It is his submission that irrespective of the matter being under consideration earlier, that the petitioners have no right to ask for the grant in respect for the earlier academic year. Under normal circumstances, I would have straight away upheld this argument except for the fact that the petitioners learned Advocate has demonstrated to the Court that there does exist on record enough material to indicate that the petitioners had qualified for the grant from the year 1994-95 and that but for the intervention of respondent 4 that the Government would have in fact sanctioned that amount. This material is sufficient for the Court to grant the relief asked for by the petitioners with effect from that academic year.

4. The petitions accordingly succeed. Respondents are directed to compute and pay to the petitioners the arrears starting from the academic year 1994-95 latest by 30-3-1996 failing which the respondents will be liable to pay interest computed at 18% per annum. The learned Government Advocate shall convey to the respondents directions of this Court. Petitions are accordingly allowed. No order as to costs. The amount in question shall be recovered by the Government from respondent 4 even if necessary by filing a suit against him.

5. Learned Government Advocate is permitted to file memo of appearance within 3 weeks.