
(1996) 03 AP CK 0078

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23422 of 1995

Dr. D. Prabhakara Sarma

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 21-03-1996

Acts Referred:

Citation : (1996) 2 ALT 637

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : D.V.S. Murthy, for the Appellant; Govt. Pleader for Respondent Nos. 1 and 2, Addepalli Suryanarayana and D.V.R. Sarma, for the Respondent

Judgement

G. Bikshapathy, J.—In this present writ petition, the proceedings of the 2nd respondent dated 23-9-1995 in so far as they relate to the transfer of 4th respondent to the 3rd respondent institution is challenged.

2. The facts leading to the writ petition are that the petitioner was appointed as Lecturer in the 3rd respondent institution in 1968. He continued to function in the said capacity. While so, one senior most Lecturer by name Sri R. Veerabhadra Sarma, Principal of the 3rd respondent institution retired from service with effect from 30-4-1995. The petitioner being the senior most Lecturer in the said institution was promoted as Principal and appointment orders were issued on 7-4-1995. Thereafter the matter was referred to the 2nd respondent Commissioner of Collegiate Education, Hyderabad for necessary approval. However, it appears that the Commissioner has not passed any orders on the communication sent by the Correspondent of the 3rd respondent institution. While so, the 2nd respondent issued proceedings dated 23-9-1995 transferring the 4th respondent to the 3rd respondent institution as Principal, the said order is assailed in the present writ petition.

3. The learned Counsel for the petitioner Sri D.V. Sitharam Murthy submits that the impugned order is wholly illegal and without jurisdiction. He further submits

that the 2nd respondent has no power or jurisdiction to transfer the 4th respondent to the 3rd respondent institution without taking the consent of the 3rd respondent institution. He also submits that the Oriental College of Tanuku has not been merged with the 3rd respondent institution, therefore the 4th respondent cannot be transferred as a Principal of the 3rd respondent institution. The learned Counsel for the 3rd respondent submits that the petitioner being the senior most Lecturer in the College has been promoted as a Principal and necessary approval was already sought for from the Commissioner by letter dated 10-5-1995. The learned Counsel for the 4th respondent Sri Parabrahma Sastry submits that the Government issued directions in G.O.Ms. No. 72 Education Department, dated 14-3-1995 directing the closure of S.B.S. Oriental College, for Women, Tanuku where the 4th respondent was working as Principal from the Academic year 1995-96. The staff working in the said college was directed to be transferred to the other colleges. In pursuance of these directions, the 4th respondent was transferred to the 3rd respondent institution. He further submits that no prejudice will be caused to the 3rd respondent institution if the 4th respondent is transferred. Hence he submits that the stay granted by this Court may be vacated and consequently the writ petition may be dismissed.

4. I have given my anxious consideration to the matter. I find that the petitioner was promoted as Principal by proceedings dated 7-4-1995 and thereafter a communication was sent to the 2nd respondent seeking approval of the action taken by the College. However, no orders were passed by the 2nd respondent on this issue. Therefore, without going into the merits of the case as to the validity or otherwise of the transfer. I am inclined to dispose of the writ petition with a direction that the 2nd respondent shall consider the matter with reference to the letter sent by the 3rd respondent in RC No. 7/95-96, dated 10-5-1995 and pass appropriate orders within a period of four weeks from the date of receipt of this order. Until the final orders are passed by the 2nd respondent, the status quo as obtaining to-day shall be continued. It is made clear that I am not expressing any opinion on the competency, validity or otherwise of the proceedings dated 23-9-1995. There shall be no order as to costs.