

---

**(2014) 06 AP CK 0139**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Appeal No. 569 of 2014**

Government of A.P.

APPELLANT

Vs

K. Srinivasa Rao

RESPONDENT

---

**Date of Decision :** 10-06-2014

**Acts Referred:**

**Citation :** (2014) 6 ALT 222

**Hon'ble Judges :** L.N. Reddy, J;Challa Kodanda Ram, J

**Bench :** Division Bench

**Advocate :** K.G. Krishna Murthy, Additional Advocate General, Advocate for the Appellant; Y.V. Ravi Prasad and J. Ugranarasimha, Advocate for the Respondent

**Final Decision :** Allowed

---

## Judgement

L. Narasimha Reddy, J.—This writ appeal is filed against the judgment dated 31-12-2013, rendered in W.P. No. 10740 of 2005. Respondents 1 and 2 therein are the appellants. For the sake of convenience, the parties are referred to, as arrayed in the writ petition.

2. The petitioner prayed for a Writ of Mandamus, to declare the action of the 2nd respondent, District Educational Officer, in not approving his appointment as a Teacher in the 3rd respondent-Institution and not sanctioning the stipend as well as salary, from the date of his appointment; as illegal, arbitrary and erroneous, and to direct the respondents to approve his appoint and extend all benefits from 15-04-2002, and to continue to pay the salary, in future.

3. Briefly stated the case of the petitioner was that, the 3rd respondent, an Elementary School at Bhattiprolu Village and Mandal, which is admitted to grant-in-aid; submitted proposals to the 2nd respondent for appointment of 3 teachers, and that the permission was accorded on 22-02-2000. It was stated that according to the roster, the first vacancy is earmarked for O.C. Woman, the second, for S.C. Woman, and the third for O.C. General. The petitioner stated that he belongs to B.C. "B" category; is a non-local, and was included in the

panel.

4. It was stated that there are disputes between the 3rd respondent i.e. the Secretary and Correspondent of the Institution (who is none other than the father of the petitioner) and his brother, Mr. K.L. Kantha Rao, W.P. Nos. 21601 of 1997 and 3429 of 2000 were filed in this behalf, and that the selection of the candidates for the sanctioned posts was also the subject-matter of the writ petitions.

5. It was mentioned that the 3 candidates were appointed against the notified vacancies, subject to the result of those writ petitions. On the basis of the common orders dated 11-09-2000 passed in W.P. No. 21601 of 1997 and batch, the Management is said to have been assumed by the 3rd respondent, and that thereafter an order of appointment was issued in favour of the petitioner on 14-04-2002. It was mentioned that though the proposals for approval of the appointment of the petitioner was submitted to the 2nd respondent, it was rejected by stating totally untenable reasons.

6. The writ petition was contested by the respondents 1 and 2 by filing a detailed counter-affidavit. According to them, the permission to fill 3 S.G.T. posts was accorded vide proceedings dated 22-02-2000, and after the selection process, 3 candidates, viz., Y. Manikyaladevi, K. Vijayaprasanna and B. Sridhar were selected and appointed in accordance with the prescribed procedure. A detailed reference was made to the dispute between the 3rd respondent and his brother, Kantha Rao, and submission of proposals for approval of appointment of the petitioner. It was stated that the appointment of the petitioner, if any, was totally in contravention of the prescribed procedure, and that his appointment cannot be approved, that too when the three teachers, who have been selected and appointed against the vacancies are already working.

7. Through the order under appeal, the learned single Judge allowed the writ petition and directed respondents 1 and 2 to approve the appointment of the petitioner in the Secondary Grade Teacher and to extend all the benefits claimed by him.

8. Sri K.G. Krishna Murthy, learned Additional Advocate General for the respondents submits that the appointments in the aided institutions, that too against the vacancies admitted to grant-in-aid, can be made only with the prior permission of the competent authority, and event after the selection is made, the approval must be accorded. He contends that the 3 vacancies in the institution were filled by strictly following the prescribed procedure, and there was no occasion for appointing the petitioner, who is none other than the son of the Correspondent, i.e. the 3rd respondent. He submits that the learned single Judge did not take note of such important aspects, and allowed the writ petition.

9. Sri Y.V. Ravi Prasad, learned counsel for the petitioner, on the other hand, submits that though permission was accorded in February, 2000 for filling the vacancies, the roster points were not properly selected, and the appointments

were made by a Correspondent, who was found to be not entitled to hold that office. He submits that the petitioner was appointed against a proper roster point, and the same ought to have been approved by the 2nd respondent. It is argued that the learned single Judge has taken into account, the entire gamut of the case and granted the relief, and that there do not exist any grounds for interference.

10. A private elementary school at Bhattiprolu Village and Mandal was admitted to grand-in-aid. There was serious dispute among the 3rd respondent, by name, K. Ramasastry and his brother, Kantha Rao, in the context of administration of the school. The disputes notwithstanding, proposals have been submitted seeking permission to fill 3 vacancies of secondary grade teachers admitted to grant-in-aid. The competent authority i.e. the District Educational Officer, the 2nd respondent, accorded permission vide proceedings dated 22-02-2000. It was clearly mentioned that the vacancies are at roster point Nos. 1, 2 and 3, and they are earmarked for O.C. Woman, S.C. Woman and O.C. General, respectively. It appears that the petitioner was one of the applicants. The Selection Committee, which was constituted in accordance with the relevant Rules, prepared a panel, and ultimately 3 candidates, who are named in the preceding paragraphs, were selected and appointed, through orders dated 23-03-2000. Their appointment was also approved by the competent authority. It is brought to the notice of this Court that those 3 teachers, together with their posts, have since been transferred to a different institution.

11. As a result of the common orders passed in the two writ petitions, referred to above, the 3rd respondent is said to have assumed management of the institution. In case he felt that the appointment of the 3 teachers, named above, was not proper, he ought to have taken steps to get that set at naught. The record does not disclose that any steps in that direction were taken. He has simply issued an order of appointment to his son, the petitioner, and submitted the same for the approval of the 2nd respondent. It hardly needs any mention that a valid appointment, in an educational institution, admitted to grant-in-aid, can be made only with the prior permission of the competent authority, and strictly in accordance with the prescribed procedure. An advertisement, inviting applications from eligible candidates, is to be issued, and the candidates are required to be selected by a Committee, constituted in accordance with the Rules and with the participation of various persons, mentioned therein. There are no traces of that, for the so-called appointment of the petitioner.

12. An effort is made to treat the inclusion of the name of the petitioner to the panel prepared in the year 2000, when the three teachers were appointed. If that is so, the panel stood worked out with the appointment of 3 teachers, and it has no subsisting purpose to serve. If the petitioner was of the view that he ought to have been selected against one of the 3 vacancies, the only course open to him was, to challenge the selection and appointment of the concerned candidates, duly impleading them. The appointment of the petitioner in the year

2002, by the 3rd respondent, did not at all bind the Government, nor there was any clear vacancy for his absorption. The disputes between the 3rd respondent and his brother, Kantha Rao, do not have the effect of disturbing the selection and appointment of the three teachers, against the three notified vacancies. As long as those appointments remain in tact, the question of the petitioner, being treated against one of the vacancies, does not arise.

13. The writ appeal is accordingly allowed, and the order under appeal is set aside. It is, however, directed that, in case there exists any aided vacancy of Secondary Grade Teacher in the 3rd respondent-Institution, and if the petitioner is found to be otherwise qualified to be appointed, the respondents 1 and 2 shall consider the feasibility of absorbing him against such vacancy.

There shall be no order as to costs.