
(2008) 06 AP CK 0014

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 25269 of 2007 and 2441, 4084 and 5849 of 2008

Koppu Ramesh

APPELLANT

Vs

A.P. Social Welfare Residential Educational Institutions
Society and Another

RESPONDENT

Date of Decision : 10-06-2008

Acts Referred:

Citation : (2008) 4 ALD 740 : (2008) 5 ALT 751

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : B. Viswanatha Reddy, in WP No. 5849 of 2008, G. Vidya Sagar, in WP Nos. 25269 of 2007 and batch and 4084 of 2008 and K. Ramamohan Mahadeva, in WP No. 2441 of 2008, for the Appellant; K. Durga Prasad, SC, for the Respondent

Judgement

L. Narasimha Reddy, J.—It would not be an exaggeration to say that the prime sectors of service, such as, education and health, received greater amount of attention, and functioned more efficiently under the Governments of the past decades, than under those in the recent past. The hope of the people that they would get better services under popular Governments had slowly been eroded. The circumstances, that led to the filing of this batch of writ petitions, would throw some light on this.

2. With an object of providing quality education in public institutions to the students belonging to socially and economically backward category, residential institutions were established under the umbrella of a Society viz., A.P. Social Welfare Residential Educational Institutions Society (for short "the Society"), 1st respondent herein, formed by the Government itself. The sanctioned strength of teachers in these institutions was 1725. Though a very good beginning was made, the priorities of the Governments, one after the other, have undergone change. Not making regular appointment of teachers against the existing vacancies appears to have been treated as an austerity measure. Between 1996

and 2007, teachers were appointed on contract basis with a salary of Rs. 5,000/- per month, even while thousands of crores of rupees were spent on popular, but unproductive schemes. The result is that the 1st respondent could not attract meritorious candidates at that salary, and to meet the necessities, even unqualified candidates were appointed, compromising with the prescribed qualifications. It has also become a hay day for some, to sneak into the service, on the basis of fabricated and fraudulent certificates. The quality of education imparted through such material, is a matter, for anyone to guess.

3. At least at a belated stage, the respondents felt that measures need to be taken, to make regular appointments. G.O. Ms. No. 59, Social Welfare Department, dated 10.8.2007, was issued by the Government, enabling the Secretary of the Society to regularize such of the teachers appointed on contract basis between 1996 and 2003, subject to their possessing requisite qualifications. Verification revealed that 372 teachers did not hold the Post Graduation qualification and 42 teachers did not hold the B.Ed. qualification, which is essential for the posts of Residential Teachers. A semblance of exemption was granted to such candidates, on condition that they must acquire these qualifications within the stipulated time. Here again, quality was compromised, but an endeavour was made to bring about orderliness.

4. The examination of the qualifications of the teachers appointed on contract basis disclosed that the certificates produced by the petitioners herein were not genuine. Therefore, the Society had issued show-cause notices, on different dates, to the petitioners and certain others, directing them to explain as to why necessary action shall not be taken. While some of the petitioners have submitted explanations, and filed writ petitions thereafter, the others have approached this Court straight away. This Court granted interim orders in all the matters, except in W.P. No. 5849 of 2008, directing that the respective petitioners be continued in service.

5. The petitioners contend that they have approached some of the institutions with a bona fide belief that the education imparted and certificates issued by them are genuine and accordingly obtained the same. They plead that the facility extended by the respondents to those candidates, who did not hold requisite qualifications as mentioned in G.O. Ms. No. 59, may be extended to them also.

6. The respondents filed separate counter-affidavits in the respective writ petitions, together with the applications for vacating the interim orders. It is urged that the petitioners in Writ Petition Nos. 5849 of 2008 and 25269, 25270, 25271 and 25272 of 2007 have already been removed from service through final orders, dated 23.11.2007, since they did not submit their explanations. Several other pleas are also taken.

7. Sri G. Vidya Sagar and Sri B. Viswanatha Reddy, learned Counsel for the petitioners submit that their clients did not resort to any acts of fraud and on the other hand, they were cheated by some of the Agencies, in the name of

conducting P.G. and B.Ed. Courses through correspondence. They further submit that the respondents themselves were satisfied about the services rendered by the petitioners and they may be extended the facility, similar to the one extended to the candidates, who did not possess the requisite qualifications.

8. Sri K. Durga Prasad, learned Standing Counsel for the Society, on the other hand, submits that the petitioners cannot take advantage of the fraud committed by them. He further submits that it is unbelievable that the persons, who are expected to undergo post-graduation education, have been cheated by private educational institutions.

9. The very object, with which the Society and its institutions were formed, was substantially defeated, on account of lack of vision and undue interference by the Government at various levels. Having created a Society and provided necessary infrastructure, the Government had clipped the wings of the Society, disabling it from making the appointments on regular basis, as and when vacancies arose. The Society was compelled to make appointments on contract basis. It is not difficult to imagine the quality of teaching by such candidates or the impact thereof on the students, who come out of the institutions. It was not as if such measure was taken, as an exception. For all practical purposes, it became a settled policy and it went on for more than a decade. By the time, the impact was realized, it was too late either for the Government or the Society. Some damage control was thought of, faced with a situation of almost 3/4th of the strength, being of that category. Though the Society did not have the best material on its rolls, it had to remain satisfied with the experience of the teachers appointed on contract basis. The verification, in this regard, revealed that the certificates filed by some of the candidates were not genuine.

10. In all fairness to the candidates, whose certificates were found to be not genuine, the Society issued show-cause notices. These writ petitions were filed challenging the show-cause notices. On the face of it, the writ petitions are not maintainable. It was not even alleged that the authority, who issued the show-cause notices, is not vested with the power or jurisdiction. Howsoever attractive the plea of the recipient of a show-cause notice may be, Courts cannot interfere at the stage of show-cause notice and must leave it to the concerned authority to take a final decision. The only exception is where the show-cause notice is issued by an authority, not vested with the power, or contrary to any specific provisions of law. The course of action adopted by some of the petitioners, be it, in the form of approaching the politicians to influence the decision making authority, or other steps taken by them to prevent the steps in furtherance of the show-cause notices, cannot be appreciated. On the other hand, they deserve to be deprecated.

11. The picture that obtains, as of now, is that in case of the petitioners in Writ Petition Nos. 5849 of 2008 and 25269, 25270, 25271 and 25272 of 2007, the final orders of dismissal from service have already been passed. As regards others, the matters are pending at the stage of issuance of show-cause notices

and submission of explanations. The final orders of dismissal were passed mainly on the ground that the explanations were not submitted by the respective petitioners. In their anxiety to get the relief, they have rushed to this Court, without even submitting the explanations. When the entire career is involved, the employee deserves to be given an opportunity to submit explanation. It is not as if months have intervened between the date of service of show-cause notices and the final orders.

12. This Court is of the view that the ends of justice would be met, if the final orders of dismissal are set aside, leaving it open to the respective petitioners to submit explanations and oral submissions within ten (10) days from today. Since the academic year has almost commenced, a date can be fixed for making oral submissions directly or through a representative, in addition to submission of explanations, to avoid further delay.

13. Hence, Writ Petition Nos. 5849 of 2008 and 25269, 25270, 25271 and 25272 of 2007 are allowed and the orders of dismissal passed against the respective petitioners are set aside. Writ Petition Nos. 25963 and 25976 of 2007 and 2441 and 4084 of 2008 are dismissed. It is directed that such of the petitioners, who have not submitted explanation, so far, shall submit the same within ten (10) days from today; and the oral submissions, if any, shall be made before the Secretary of the Society, in the Office, on 19.6.2008. It shall be open to the Secretary of the Society to pass final orders, on the basis of the explanations submitted by the respective petitioners and the submissions made on their behalf. There shall be no order as to costs.