

(2011) 12 KAR CK 0197

In the Karnataka High Court

Case No : Writ Petition No's. 41244 of 2010 and 8299 of 2011 (S-PRO)

Manjunath Bhat and Ashok

APPELLANT

Vs

Principal Secretary, Social Welfare Department, M.S. Building,
Bangalore, Principal Secretary, Education Department, State
of Karnataka and Department of Minority Welfare

RESPONDENT

Date of Decision : 01-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0197

Hon'ble Judges : Anand By Rareddy, J

Bench : Single Bench

Advocate : S.N. Bhat, for the Appellant; Raghavendra G. Gayathri, Government
Pleader for Respondent Nos. 1 to 4, for the Respondent

Final Decision : Allowed

Judgement

Anand By Rareddy

1. The petitions coming on for preliminary hearing, it is seen that the Government Pleader has not chosen to file Statement of objections. Having regard to the facts and circumstances, the petition is considered for final disposal.

2. The petitioners are working as teaching staff in the Muslim Residential School at Natekal, Mangalore Taluk since the year 1996. At the time of their appointment, the School was run by the management called Hazarath Syed Madani Residential School. It was an aided institution. The appointment of the petitioners were duly approved by the Director of Public Instruction. As per the notification dated 21.05.1998, the School was taken over by the State Government. The Department of Education thereafter addressed a letter dated 1.12.1999 as to whether the School was to be treated as a Government school. The Government, however, did not take any decision in declaring that the School ought to be considered as a Government school. Even after all these years, the position remains the same. It is further stated that the Director, Urdu and Other

Minorities School Directorate, Bangalore, by a notification dated 12.06.2003, had decided to transfer all the Muslim Residential Schools in the State to the Department of Social Welfare. A copy of that order is at Annexure-"B" to the writ petition. Under this notification, there are five Muslim Residential Schools which are in existence in Karnataka including the Muslim Residential School, Natekal which was transferred to the Social Welfare Department. When the matter was pending at that stage, the Director, Urdu and Other Minority School Directorate, Bangalore, had addressed a letter to the Secretary to the Government of Karnataka Primary Education to consider the employees of the Muslim Residential Schools as Government employees. There was no decision taken in respect of that request and subsequently, by a notification dated 5.10.2004, all the residential schools were transferred to the Zilla Panchayath and that notification is at Annexure-"D" to the writ petition. It is therefore, in the above manner that the residential schools were transferred to different departments, periodically. Even after all these years, no specific notification was issued by the Government absorbing the employees of the residential School in any of the departments of the Government. Subsequently, by a notification dated 13.01.2010, the five residential schools were once again transferred to the Minority Welfare Department. There was no reason for such a transfer. The petitioners along with Other employees of the school, had filed a writ petition W.P.No. 4877/2008 Before this Court to consider and fix their seniority in the Department and the petition was disposed of directing the Directorate, Urdu and Other Minority Schools to fix the seniority of the petitioners. As that has not been complied with and the petitioners had filed a contempt petition before this Court, the Director had appeared and made a submission that they do not come under the purview of his Department. The Commissioner of Public Instructions published a revised seniority list of High School Teachers. In the list, three of the teachers who were working along with the petitioners find place and a copy of that list is at Annexure-"H" to the writ petition. The petitioners are in the dark as to whether they are to be treated as Government employees. At different points of time they have been placed under different departments. When insofar as three of the teachers who were working along with the petitioners are indeed treated as teachers in the Education Department and have been provided all consequential benefits, therefore the petitioners claim that they should be similarly treated as being teachers under the Education Department.

3. In this view of the matter, there is indeed a confused sequence of events where the institutions in which the petitioners are employed have been transferred to various Departments and it is also seen that the three of the teachers who were working along with the petitioners are indeed treated as Government employees under the Department of Education in which event, there should be no impediment also treating the petitioners as employees coming under the purview of the Department of Education. In any event, the concerned respondents namely the Principal Secretary, Social Welfare Department, the Principal Secretary, Education Department and Secretary, Department of Minority

Welfare and if necessary, the Chief Secretary himself, jointly meet and take a decision as to the fate of the petitioners and to declare their status as to belonging to one or the other Government Departments and to extend the benefits to which they may be entitled, and to provide all such arrears which they have been denied. With that observation, the petitions stand allowed.