

(1999) 04 AP CK 0001

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19088 of 1998

P. Ruth Sowsheela and others

APPELLANT

Vs

District Educational Officer, Kurnool and others

RESPONDENT

Date of Decision : 28-04-1999

Acts Referred:

Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools Under Private Managements) Rules, 1993 — Rule 12, 13(1)

Citation : (1999) 5 ALD 128 : (1999) 4 ALT 40

Hon'ble Judges : A. Hanumanthu, J

Bench : Single Bench

Advocate : Mr. K. Rathangapani Reddy, for the Appellant; Government Pleader for School Education and Mr. V. Venkataramireddy, for the Respondent

Judgement

1. This writ petition brings to light the helplessness of the educated unemployed and their exploitation by the unscrupulous Managements of Private Minority Educational Institutions in the selection for Unaided Teacher posts.

2. The petitioners herein are the qualified Teachers. The second (sic. third) respondent herein is the Manager of a Group of Minority Educational Institutions run in different names at Nandyal and also at Kurnool. The Teachers appointed in those Schools are liable to be transferred from one School to another School under his Management. The fourth respondent herein is the Convenor of S.P.G. Schools, Nandyal Diocese and the fifth respondent herein is the Correspondent of S.P.G. Model Elementary School, Nandyal. The petitioners who were working in Compassion School in Kurnool were transferred to S.P.G. Model Elementary School through the proceedings of the third respondent dated 19-4-1997. Even before their transfer to that School, the third respondent issued an Advertisement in "Eenadu" and "Vartha" Telugu Daily Newspapers dated 29-1-1997 calling for the applications of Christian Minority candidates for five posts of unaided Secondary Grade Teachers. In pursuance of the said Advertisement, these petitioners applied for the said posts as they are fully

eligible and fulfilled all qualification requirements. The first respondent-the District Educational Officer, Kurnool, also granted permission to the fifth respondent by his proceedings dated 28-7-1997 to hold written test and interview on 8-8-1997 for filling up the said posts i.e., five posts of Unaided Secondary Grade Teachers. The first respondent also nominated the second respondent i.e., Deputy Educational Officer to constitute the Selection Committee for conducting Test and Interview. Accordingly, the Selection Committee was constituted with the second respondent as a nominee of the first respondent, fifth respondent, the Head Master of the School and two other experts. Fifteen candidates including the petitioners herein appeared before the Selection Committee on 8-8-1997 and the Selection Committee completed the entire process, but, the result of the said process has not seen the light of the day.

3. It is the case of the petitioners that in the said selection they stood at ranks 2, 3 and 5 but the Management without forwarding the list of the selected candidates for approval to the first respondent submitted a letter stating that the Selection Committee could not meet on 8-8-1997 for want of quorum and sought fresh date for selection at the instance of some interested parties and that when the petitioners and other successful candidates approached the fifth respondent, he realised the injustice done to them and issued another letter to the first respondent stating that the interviews conducted on 8-8-1997 were held with full quorum and the selected marks list was submitted to the second respondent duly signed by the members of the Selection Committee for approval of the first respondent. But no final orders were issued. The petitioners to their utter surprise saw a paper publication issued by the fourth respondent on 28-6-1998 calling the applications for the posts of four Secondary Grade Aided Teachers and three Secondary Grade Unaided Teachers. The petitioners filed this writ petition challenging the said Advertisement dated 28-6-1998 without appointing them for the posts of Secondary Grade Unaided Teachers in pursuance of the earlier notification dated 29-1-1997.

4. By an Order dated 9-7-1998 this Court directed interim stay of further proceedings pursuant to the Advertisement dated 28-6-1998. This interim Order was modified subsequently by an Order dated 31-8-1998 and interim stay of filling up of three Unaided Posts of Secondary Grade Teachers in pursuant of the Advertisement dated 29-1-1997 was granted. It is further observed that it is open for the petitioners to make applications for subsequent advertisement for appointment to the posts of Unaided Teachers.

5. Before advertizing to the rival contentions made by the Counsel on either side, it is necessary to refer to the relevant Rules in A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Management) Rules, 1993 as made in O.O. Ms. No.1, Edn. (PS2) dated 1-1-1994. Rules 12 and 13 are relevant in this context. Rule 12 relates to appointment of staff and Rule 13 relates to constitution of Staff Selection Committee. Under Rule 12 the Educational Agency shall appoint staff as per the

staffing pattern prescribed by the Government from time to time. All the posts for teaching as well as non-teaching staff shall be advertised at least in two newspapers having large circulation of which one shall be in Telugu. All Educational Institutions receiving grant-in-aid from the Government shall notify vacancies to the Employment Exchange and in addition, advertisements in newspapers and they shall also be required to call the candidates sponsored by the Employment Exchange for Test and Interview. The Aided School shall also be required to have a nominee of the District Educational Officer, not below the rank of Deputy Educational Officer in the Staff Selection Committee. The selection of posts in all private Educational Institutions shall conform to the communal rotation roster. However, this shall not apply to the minority Educational Institutions only if they are selecting a candidate belonging to concerned minority community. This procedure of selection is equally applicable for Aided Posts or Unaided Posts. All appointments made either teaching or non-teaching staff by Aided or Unaided institutions shall be subject to the approval of the competent authority. For this purpose, the Educational Agency can inform the competent authority within one month of the selection. The competent authority shall grant approval unless the selection has been in violation of these rules. If the approval is not granted within two months from the date of receipt of the proposals in respect of unaided posts, the approval can be deemed to have been granted. The Educational Agency shall make the appointments only on such approval.

Under Rule 13(1) the Staff Selection Committee shall consist of the following persons as Members:

- (a) President of Educational Agency or his nominee;
- (b) Correspondent/Secretary/Manager of the Institution;
- (c) Head Master/Principal of the Institution;
- (d) Two subject Experts to be selected by the Educational Agency from the Panel approved by the District Educational Officer. Of these at least one should be the Head Master of a recognised school;
- (e) In respect of aided school, an officer of the Education Department not below the rank of Deputy Educational Officer nominated by the District Educational Officer;
- (f) The President of the Educational Agency can either be the Chairman; or nominate one of the members of the Staff Selection Committee to be the Chairman;
- (g) The quorum for Staff Selection Committee meetings shall be four.

7. In the counter-affidavit filed on behalf of the respondents 3, 4 and 5, the issuance of the advertisement in "Eenadu" and "Vartha" newspapers calling for applications for filling up of five posts of Unaided Secondary Grade Teachers is

admitted. The constitution of the Selection Committee to hold the test and interview on 8-8-1997 is also admitted. But it is specifically pleaded that the Selection Committee meeting could not be held on 8-8-1997 for want of quorum and the fifth respondent informed the first respondent about it by his letters dated 9-10-1997 and 10-10-1997 and requested for fixing another date. It is also pleaded in the counter that the fifth respondent was forced to write a letter to the first respondent on 13-3-1998 stating that the interviews were conducted on 8-8-1997 with full quorum and the selected list was submitted to the second respondent duly signed by the members of the Selection Committee. It is also admitted in the counter that the fourth respondent issued another advertisement on 28-6-1998 calling for the applications for the posts of four Aided and three Unaided posts of Secondary Grade Teachers. It is further stated in the counter that at present four aided and twelve unaided posts existing under the Management and the same have to be filled up with the approval of the first respondent. Thus, the sum and substance of the counter-affidavit filed on behalf of the respondents 3, 4 and 5, is that though Staff Selection Committee was constituted and the meeting was scheduled on 8-8-1997 the said meeting could not take place for want of quorum.

8. On behalf of the respondents 1 and 2, the counter-affidavit of the second respondent has been filed. The sum and substance of the counter-affidavit of the second respondent is that he attended the Selection Committee meeting held on 8-8-1997 as a nominee of the first respondent; that the selections were conducted on 8-8-1997 for filling up of five unaided posts in accordance with the procedure prescribed under Rules 12 and 13 and that the Selection Committee was also constituted in accordance with Rule 13; and that after completion of the selection there were differences among the Chairman and the Members and as such the Management did not submit any proposals for approval of the Selection conducted on 8-8-1997. As regards the advertisement issued on 28-6-1998, the second respondent states in his counter-affidavit that it relates to the posts in the Schools other than the fifth respondent-School.

9. The learned Counsel for the writ petitioners vehemently contends, relying on the counter-affidavit filed by the second respondent, that the selections were made on 8-8-1997 by the validly constituted Selection Committee of which the second respondent himself is a nominee of the first respondent and that due to disputes between the Chairman and the other members, the Management did not submit any proposals for approval of selection made on 8-8-1997 and that the respondents 3 and 5 may be directed to submit the list of selected candidates to the first respondent for approval. The learned Counsel for the writ petitioner also submitted that the petitioners secured the ranks 2, 3 and 5 in the said selection.

10. The learned Counsel for the respondents 3, 4 and 5, on the other hand, submits that the meeting of the Selection Committee could not take place for want of quorum on 8-8-1997 and as such no list was sent to the first respondent

for approval.

11. The respondents 3, 4 and 5 have categorically admitted in their counter with regard to the constitution of Selection Committee. Their plea that the Selection Committee meeting was not held on 8-8-1997 for want of quorum could not be believed in the light of other circumstances in this case. It is not disputed that the second respondent who has given his counter-affidavit was the nominee of the first respondent in the selection committee meeting. He has categorically stated in his counter-affidavit in para 4 that the Selection Committee was constituted in accordance with Rules and the meeting was held on 8-8-1997 and selections were conducted for filling up five unaided posts in accordance with the procedure prescribed under the Rules. He further states that after completion of the selection the differences arose between the Chairman and the Members and as such the Management could not submit the list for approval of the first respondent. Admittedly, the second respondent who has filed his counter-affidavit is a responsible Officer and he has categorically stated on oath that the selections were made in the meeting held on 8-8-1997 in his presence. I do not find any reason to disbelieve his statement filed by way of counter-affidavit. Further, the fifth respondent himself admits in his affidavit that by his letter dated 13-3-1998 addressed to the first respondent he has stated that the interviews were conducted on 8-8-1997 with full quorum. But he comes up with an explanation for the discrepancy with his earlier letters dated 9-10-1997 and 10-10-1997 stating that interviews could not take place on 8-8-1997 for want of quorum by stating that he was forced to issue such a letter dated 13-3-1998 at the instance of these petitioners. In my considered opinion, the present explanation is only an afterthought and no weight can be given to that explanation.

12. On a careful consideration of the facts and circumstances in this case and the counter-affidavit filed by the second respondent, I am satisfied that the Staff Selection Committee was held on 8-8-1997 with full quorum and conducted the Test and Interviews and that the petitioners secured 2, 3 and 5 in the said selection but the Management failed to submit the selection list to the first respondent for approval as per Rules.

13. For the reasons stated above, the writ petition is allowed and the respondents 3 and 5 who are the Manager and Correspondent respectively of S.P.G. Model Elementary School, Nandyal, are directed to submit the selected list of candidates including the names of the petitioners herein to the first respondent for approval within ten days from to-day and the first respondent is directed to pass Orders on the said list within one month from the date of receipt of the said list positively. If the respondents 3 and 5 fail to comply with the above said direction of this Court within the stipulated time, the first respondent is further directed to take necessary action including that of derecognition of their Schools. The respondents 3 and 5 are further directed to pay Rs.2,000/- (Rupees two thousand only) towards the cost of the petitioners in this writ

petition.