
(2003) 01 AP CK 0068
In the Andhra Pradesh High Court
Case No : CC No. 794 of 2002

Sankara's College of Education	Vs	APPELLANT
G. Satyanarayana and Others		RESPONDENT

Date of Decision : 03-01-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (2003) 2 ALD 888 : (2003) 3 ALT 205

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P.V.S.S.S. Rama Rao, for the Appellant; P. Sreeramulu Naidu, for Respondent Nos. 1 and 2 and T.S. Harinath, for the Respondent

Judgement

L. Narasimha Reddy, J.—The petitioner is a College of Education, affiliated to Sri Krishna Devaraya University, Anantapur (for short "the University"). It had a sanctioned strength of 160 seats. Through proceedings dated 9-1-2001, the University had reduced the intake from 160 to 140. The petitioner filed W.P. No. 703 of 2002 challenging the said proceedings. One of the main contentions in the writ petition was that the order dated 9-10-2002 was passed without any notice. In the counter-affidavit filed by the University in the writ petition, this aspect was not disputed. Taking the same into account, this Court passed an order dated 22-4-2002 in WPMP. No. 790 of 2002 in the said WP, suspending the operation of the order dated 9-1-2001. The petitioner filed this contempt case alleging that despite the orders of this Court, students were not allotted against the 20 seats.

2. When the contempt case came up for admission, it was urged that the copy of the order of this Court was served upon the Convenor, EAMCET-2001, Kakatiya University, and he, in turn, addressed a letter dated 4-5-2002 seeking clarification from the University. It was in this context that the Convenor was impleaded as the 3rd respondent.

3. Respondents 1, 2 and 3 have filed separate counter-affidavits. Respondents 1 and 2 pleaded that the 3rd respondent is conferred with the power to allot the

students and they have absolutely no role to play in the matter. They also urged that the petitioner ought to have impleaded the 3rd respondent herein in the writ petition itself and it is only the petitioner that is to be blamed for the situation that has emerged.

4. The 3rd respondent has filed a counter-affidavit stating that allotment of candidates was concluded in the month of November itself, the instructions were commenced from 19-11-2001 and the last date of instructions was 17-8-2002. It was further contended that had he been impleaded in the writ petition, he would have contended that the relief as extended to the petitioner cannot be granted, more so, at that point of time. It is also his contention that the order of this Court dated 22-4-2002 cannot be said to be the one for allotment of candidates. It is averred that allotment of the candidates could not be made subsequent to 22-4-2002 due to lapse of time and commencement of classes from 19-11-2001 itself. It is his case that in view of Order II, Rule 2 of CPC, no relief can be sought and CC is not maintainable.

5. Sri P.V.S.S.S. Rama Rao, learned Counsel for the petitioner, submits that once this Court had suspended the order of the University reducing the intake, the respondents were under obligation to ensure that the College is allotted candidates without any reduction. It is his case that the 2nd respondent ought to have responded to the letter dated 4-5-2002 addressed by the 3rd respondent. He submits that once the 3rd respondent was intimated of the factum of suspension of the orders of the University reducing the intake, he ought to have allotted the remaining 20 students and, in that view of the matter, they are liable to be punished for contempt of Court.

6. Sri Ramesh Ranganathan, learned Additional Advocate-General, appearing for respondents 1 and 2, submits that they were under the impression that once this Court passed the order, it was only for the 3rd respondent to take steps to allot the candidates and there is nothing on record to show that respondents 1 and 2 have taken any steps to frustrate the orders of this Court. He also submits that the petitioner ought to have impleaded the 3rd respondent as a party in the writ petition also.

7. Sri T.S. Harinath, learned Standing Counsel for respondent No. 3, submits that by the time this Court passed the interim orders, the admissions were closed and substantial portion of the course has been completed. It is also his contention that since the 3rd respondent was not a party, he cannot be found fault with, for not allotting 20 candidates to the petitioner-College.

8. From the narration of the facts referred to above, it is evident that the petitioner approached this Court at the earliest point of time, after the intake was reduced. It was at the instance of respondents 1 and 2 that the writ petition has undergone several adjournments. It was ultimately on 22-4-2002 that this Court passed the interim orders, after respondents 1 and 2 filed counter-affidavits and on having been prima facie satisfied that the impugned order was illegal. The

petitioner had approached the 3rd respondent who was conferred with the power to allot students.

9. From a reading of the letter dated 4-5-2002 addressed by the 3rd respondent to the 2nd respondent, it is evident that he received the orders of this Court, understood the purport of it and wanted further instructions or information from the 2nd respondent. In a way, he refused to act upon the orders of this Court unless he heard from the 2nd respondent. This act of the 3rd respondent cannot be countenanced. He was very much aware that the intake of the petitioner-college was reduced from 160-140 and this Court passed an order, restoring the intake. By his refusing to act upon it and deferring the further action till the 2nd respondent clarifies it, the 3rd respondent had virtually subordinated the order of this Court to the instructions of the 2nd respondent. The 3rd respondent, who was holding the position of Convenor on behalf of all the Universities, acted in an irresponsible, callous and indifferent manner. He tried to justify his acts and omissions by taking a plea that he was not a party to the writ petition and that the admissions were closed long back. In fact, in the counter-affidavit, he stated that had he been a party to the writ petition, he would have impressed upon the Court as to how it is not possible to grant such orders, more so, at that stage.

10. If the contention of the 3rd respondent that by the time the orders were passed by this Court, the admissions were closed and it was not possible to admit any candidate at that stage is true, the question of his addressing letter dated 4-5-2002 did not arise. Not only he has sought for further information or clarification in the matter, but has also informed the 2nd respondent that admissions to minority and few non-minority colleges, as a special case due to the directions from the Supreme Court, are in progress. It was not as if it was impossible to admit candidates at that stage. Even according to him, students admitted at that stage were to undergo a separate almanac. This is what he has done before the CC was filed.

11. The various averments made in the counter-affidavit are rather startling and reveal the mindset of the 3rd respondent. Short of saying that this Court should not have passed the order in the WPMP, he said every thing and in fact took exception for several aspects of the matter. In para 5 he states as under:

"If such a relief is sought for against me by impleading me as party in writ petition, I would have contended that such relief of allotment cannot be granted against me, more so, at that point of time."

In para 8, he has stated as under:

"When the allotment was started on 5-1-2001 and classes were commenced from 19-11-2001, further allotment of 20 seats cannot be made on or after 22-4-2002, as the duration of the B.Ed., course is 9 months and by 22-4-2002, more than half of the duration and course were over."

In para 9, he sermoned as under:

"Process of allotment and admission is a time bound programme. Relief of direction for allotment of candidates cannot be sought for at any time. Further when such relief was not sought for in WP.No. 703/2002, it cannot be sought for now. Such relief cannot be sought for now under Order 2, Rule 2 of CPC also. When such relief cannot be sought for at all, now, this contempt case is not maintainable".

12. The role assigned to the Convenor was to allot candidates. The conduct of the course, the duration of it, the almanac, etc., are within realm of the respective Universities. The 3rd respondent has, however, assumed that he is all in all for the course. The same is evident from his averments in para 10.

"Further I cannot ask the University to arrange different almanacs to different sets of students. The almanac arranged for the students admitted in October, 2001 cannot be made applicable to the students who joined in the course long after wards."

He was also keeping track of the proceedings. He referred to the fact that the petition to vacate the orders dated 22-4-2002 was dismissed. The 3rd respondent has far exceeded his limits when he stated in para 13 as under:

"When there is no contempt against the respondents 1 and 2, there cannot be contempt so far I am concerned."

13. From the pleadings and contentions referred to above, it is evident that though respondents 1 and 2 passed orders reducing the intake in the petitioner-College, they did not take any steps to circumvent the orders. It is not in dispute that the 3rd respondent alone was competent to allot candidates. The plea that he is not a party to the writ petition and as such he cannot be proceeded against any contempt could have held water, had he been not aware of the orders of this Court, and that he was ready to implement it had the order been brought to his notice. The tone and tenor of the contentions raised on behalf of the 3rd respondent suggests the opposite. The earliest person who was approached by the petitioner was the 3rd respondent. He was aware of the implications of the order. It was not for nothing that the reduced strength of the petitioner college was restored.

14. The contention of the 3rd respondent as to the stage of course, impossibility of admitting candidates at that stage, etc., clearly demonstrates that he was of the firm view that no steps need be taken pursuant to the orders of this Court. The purport of these submissions, some of which are referred to above, discloses that he has scant respect for the orders of this Court and he always held his personal view above the orders of this Court. He reels under the impression that under no circumstances the schedule fixed by him, be it as regards mode and method of admission, timing of admission, method of imparting the course, etc., can be deviated from and his is the ultimate decision. These submissions clearly indicate that the 3rd respondent was not innocent in the matter. His no sense is clearly reflected in his statements.

15. The matter was reserved for judgment. During the perusal of the record, this Court felt that the tenor of the counter-affidavit of the 3rd respondent was rather unsustainable. To ascertain whether he stands by the averments made therein, or makes any amendment to his objectionable pleadings, the matter was listed for being mentioned. The 3rd respondent reiterated his stand as reflected in the counter-affidavit.

16. It should not be forgotten that every person, particularly, those entrusted with the discharge of public functions, such as the 3rd respondent herein, are under obligation to comply with the orders of this Court, whether they are parties to the proceedings or not the averments in his counter-affidavit disclose that it is the 3rd respondent who has rendered the orders of this Court futile. His self-confidence, which is somewhat nearer to deliberate flouting the orders of the Court, has blinded him as regards his obligation to respect law. Such a person does not deserve to hold such pivotal position.

17. Though the petitioner had approached this Court at the right earnest, the interim order could not be passed because respondents 1 and 2 went on taking time. Ultimately, when orders were passed after the respondents filed counter-affidavits, the 3rd respondent takes the view that nothing can be done once the schedule is fixed. The contention raised by him is factually incorrect, inasmuch as the admissions into some minority and non-minority institutions were in progress. Even otherwise, once there exists an order of this Court, he cannot be permitted to ignore the same or to treat himself as an appellate authority. The conduct of the 3rd respondent is rather despicable. But for his deliberate omission or refusal to comply with the orders of this Court in its letter and spirit, the petitioner would have had the benefit of 20 more students. The Court is driven to a helpless situation in view of the completion of academic year.

18. Under the above circumstances, this Court severely warns the 3rd respondent and directs that he shall not be associated with similar functions at least for the next five years. The Contempt case is accordingly closed.