
(2002) 08 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 843 and 934 of 1995

Smt. Lata Sanghi

APPELLANT

Vs

Govt. of A.P.

RESPONDENT

Date of Decision : 02-08-2002

Acts Referred:

Citation : (2002) 08 AP CK 0060

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Pratap Narayan Sanghi, for the Appellant; G.P. for School Education, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The 5th respondent which is a High School, admitted to Grant-in-aid, issued Notification inviting applications to fill the pots of S.G.B.T. Teachers in the year 1991. The petitioners responded to the same. The 5th respondent constituted a Selection Committee in accordance with the relevant rules and guidelines issued by the Government. Ultimately, the petitioners were selected and were appointed by the institution. As required under the relevant rules, the 5th respondent submitted the orders of appointment for approval to the 2nd respondent. The 2nd respondent, inturn vide proceedings, dated 27-03-1992 accorded his approval for the same. Thereby the petitioners became the teachers against the aided vacancies.

2. While the matter stood thus, the 3rd respondent issued proceedings, dated 12-01-1995 cancelling the approval accorded to the appointment of the petitioners. No reasons were assigned in these orders, nor was it is provided by any notice either to the petitioners or to the 5th respondent. The orders of cancellation of approval are challenged in these writ petitions.

3. In the counter affidavit filed on behalf of respondent Nos.1 to 4, it is submitted that the appointment of the petitioners were in violation of the Rule of

Roster and the Rule of Reservation, and as such the impugned orders were issued.

4. Heard the learned counsel for the petitioners Sri K. Mahipathi Rao, Sri V. Viswanatham and the learned Government Pleader for School Education. It is the contention of the learned counsel for the petitioner that once the petitioners were selected through properly constituted Selection Committee, comprising of representative of the Government, and once the appointments were approved by the competent authority, duly verifying the relevant particulars, it was not open to the 3rd respondent to issue the impugned orders. It is their contention, that the Rule of Reservation does not apply to the posts in Private Aided Institutions. They placed reliance upon the judgment of a Division Bench of this Court in "GOVERNMENT OF A.P. v. P.THIRUMALA DEVI", 2001(3) DT(AP) - 21. It is also their contention, that the impugned orders are liable to be set aside on the ground of violation of principles of natural justice also.

5. The learned Government Pleader submits, that the at the relevant point of time, the Rule of Reservation was very much applicable for the posts in private educational institutions also. According to him, the approval was accorded without properly verifying, as to whether the Rule of Reservation was implemented.

6. The petitioners were selected by a Selection Committee in which the representative of the Government was also there. The purpose of having a representative of the Government in the Selection Committee is to verify, whether the candidates hold the relevant qualifications, whether the relevant rules relating to the selections are strictly followed by the managements or not. Once the selections are held, it is deemed that the candidates fulfilled the requisite qualifications and that the management has followed the procedure. A further verification is undertaken at the stage of granting approval. Before according approval, the competent authority undertakes the verification of various facts and only on being satisfied as to their compliance, approval is accorded. With the grant of approval, a valid right accrues, both to the management of the institutions, as well as to the incumbents, who are appointed. Such right cannot be taken away at the whims and fancies of the authorities. Admittedly, no notice was issued by the 3rd or any other respondents, before the impugned orders are issued. On this ground alone, the impugned orders are liable to be set aside.

7. The only basis on which the approval was rescinded was, that the 5th respondent did not follow the roster. The explanation submitted by the 5th respondent indicates that they did follow the roster and the 3rd respondent came to the conclusion by treating the relevant posts against different points in the roster. That however, was a matter to be verified, duly giving notice to the effected parties. That not having been done, the impugned orders cannot be sustained. Further, even this controversy does not survive, inasmuch as a Division Bench of this Court through judgment (supra-1) held that the Rule of

Reservation in favour of various categories does not apply to the posts in Private Aided Educational Institutions. Thus, viewed from any angle, the impugned orders cannot be sustained and the same are accordingly set aside.

8. It is represented by the learned counsel for the petitioners, that in view of the impugned orders, the petitioners were not paid the regular salary which they were otherwise entitled to. Inasmuch as the impugned orders are set aside, the respondents are directed to pay the difference of amounts, which the petitioners are otherwise entitled, within a period of three months from the date of receipt of this order.

9. The writ petitions are allowed. No order as to costs.