

(1998) 04 AP CK 0033

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3686 of 1998 and Batch

S.P.B.V.D. Sabha, Elementary and High School, Upparapalli, APPELLANT
Madhavaram post

Vs

Regional Joint Director of School Education, Cuddapah and RESPONDENT
Others

Date of Decision : 13-04-1998

Acts Referred:

Andhra Pradesh Education Act, 1982 — Section 24, 24(2), 89, 90
Constitution of India, 1950 — Article 19(1), 226, 30

Citation : (1998) 3 ALD 663 : (1998) 3 ALT 677

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : Mr. R.V. Subba Rao, for the Appellant; Government Pleader for School Educations and M/s. E. Manohar, for M.P. Chandramouli, for the Respondent

Judgement

1. It is unfortunate that a private institution has been groaning under perennial litigation over a quarter century, yet it is unable to extricate itself from the dutches of two rival groups operating in the management.

2. All the writ petitions can be disposed of by a common judgment. The result in WP No.9961/1990 will pave the way for the disposal of the other cases. Therefore, before considering the other cases, it is necessary to decide the matter covered by WP No.9961/ 1990.

3. The writ petition is filed by one Mr. M Ramakrishnaiah questioning the validity of the order issued by the Government in G.O. Rt. No. 1109, dated 2-7-1990 wherein the order of the 3rd respondent - District Educational Officer, Cuddapah dated 24-3-1983 was set aside and the 5th respondent was directed to be appointed as Correspondent of Sri Padma Saliya Bahuttama Vidya Daana Sabha High School (S.B.V.D. Sabha High School). The facts though voluminous, only those which are relevant for the purpose of this case are narrated in a short

compass.

4. The Sabha was registered under the Societies Registration Act on 28-7-1945 and it was running a Middle School at the relevant time. Subsequently, it was upgraded to High School. The Secretary of the Society was being nominated as a Correspondent of the School. One Mr. M.N. Venkataiah was the Secretary at the time of the establishment of the Society. As he did not convene meetings properly, internal bickerings had cropped up within the management giving rise to two groups headed by Mr. M.N. Venkataiah and Mr. M.D. Venkataiah. While so, one Mr. M Madhavaiah son of M.D. Venkataiah wrote a letter to the authorities in July/August, 1972 stating that he was nominated as Correspondent of the School and sought for approval. The authority in turn directed that the proposals should be in the proper form or that he should establish his right in the Court of law. While so, in the general body meeting held in September, 1972 Mr. MO. Venkataiah and Mr. M. Venkataiah were removed from the membership. The dispute with regard to the Correspondent thus became more controversial. An enquiry was conducted by the District Educational Officer (for short "DEO") and finally Enquiry Officer issued proceedings on 14-10-1972 approving the correspondentship of one Mr. M. Madhavaiah. Aggrieved by the said order, one Mr. M.N. Venkataiah filed WP No.5083/1972 and the same was ultimately dismissed on 8-2-1973. On a complaint received with regard to the irregularities committed by Mr. M. Madhavaiah., an enquiry was conducted and finally a show-cause notice was issued on 26-3-1985 as to why he should not be declared as unfit for Correspondentship, to which a reply was submitted by Mr. Madhavaiah. In the meanwhile Mr. M.N. Venkataiah died in November, 1985 and his son Mr. M. Ratnakrishnaiah, the petitioner herein was admitted as member and was elected as Secretary-cum-Correspondent. Final order was passed by the Director of School Education on 1-5-86 declaring Mr. M. Madhavaiah as unfit to hold the post of Correspondent. Appeal filed by the said Madhavaiah was also dismissed by the Government in GO Rt No. 1594, dated 27-11-1987. Consequent on the dismissal of the appeal, the 3rd respondent directed the management to nominate another person as Correspondent. However, Mr. Madhavaiah filed Writ Petition No.18979/1987 challenging the order passed by the Government in the appeal filed by him and the same was also dismissed on 20-1-1988. The Managing Committee of the society passed resolutions on 2-1-1988 nominating one Mr. M. Ramakrishnaiah the petitioner herein as Secretary. The 2nd respondent directed the 3rd respondent to verify the genuineness of the governing body which passed resolution on 2-1-1988 nominating the petitioner as Correspondent. The matter was verified from the District Registrar who confirmed that the aforesaid governing body was entered in the records. Basing on the directions of the 2nd respondent and the information furnished by the District Registrar, the DEO passed orders on 2-2-1988 directing the Madhavaiah to hand over the records to the Head Master. Finally, after protracted correspondence, the DEO passed orders on 24-3-1988 approving the correspondentship of the petitioner. Accordingly, he took charge on 27-3-1988. But, however Mr. Madhavaiah appears elected his son

Mr. M.D. Mallikarjuna, the 5th respondent herein as President of the School and also Correspondent and submitted the list to the District Registrar for necessary incorporation. The said request was rejected by the District Registrar.

5. While the matter stood thus one Sri Ratna Sabha Pathi, a former ML A appears to have filed an application on 11-5-1988 to the Government challenging the orders of the DEO dated 24-3-1988. It also appears that one Mr, Subbaiah also filed a representation in June, 1988. The 5th respondent did not agitate the matter anywhere. The Government passed orders in Memo dated 12-8-1988 setting aside the proceedings of the DEO dated 24-3-1988. Against the said order, the petitioner herein filed WP No.12841/1988. While admitting the writ petition, status quo was granted by this Court. Finally the writ petition was allowed on 13-4-1989 remanding the matter to the Government to decide the same after giving an opportunity to the petitioner. It appears that the 5th respondent filed a letter before the Registrar of this Court "For Being Mentioned" for seeking further directions, on 21-4-1989. This Court passed further directions to dispose of the appeal if any filed by the 5th respondent u/s 89 of the A.P. Education Act. The Government after hearing the parties passed orders in G.O. Rt. No.1 109, dated 2-7-1990 setting aside the order of the 3rd respondent -DEO dated 24-3-1988. Initially, the order was suspended by this Court on 13-7-1990. But, the said order was modified on 25-7-1990 to that of status quo. The said order of the Government is assailed in this writ petition. But, however, some more events took place even during the pendency of this litigation. The premises where the school was situated came under the submergence of an irrigation project. Therefore, the 3rd respondent issued orders to the effect that all the schools which are effected by submergence to shift to some other place. A Telegram on 2-8-1988 was also issued to Mr. Ramakrishnaiah to shift the school to Bakrapet. Subsequently, the school was finally shifted to allotted place to Saraswathipuram by the petitioner and the said shift was also approved by the authorities. But, it so happened that when the school was directed to be shifted to Bakrapet to the allotted place, the 5th respondent opened another school at Parvathipuram with some of the teachers who were working with the High School. When it was functioning at Bakrapet, some teachers came alongwith the petitioner. Thus, a breakaway group was formed by the 5th respondent when the school was shifted. Some persons joined the school at Saraswathipuram which was under the Correspondentship of the petitioners and some others joined in the school with the same name at Parvathipuram under the Correspondentship of 5th respondent. Consequently, the staff of both the schools were not paid salaries in view of this dispute. While so, it appears that the petitioner made a detailed representation alleging the collision of the authorities with the 5th respondent since the representation was not considered, he filed WP No.14658/1992 seeking appropriate directions. This Court disposed of the writ petition to enquire into the representation and pass orders within six weeks. Consequent on the directions of this Court, an enquiry was initiated into the affairs and an enquiry was conducted duly giving notice to the petitioner and the

5th respondent. Since further action was not taken, the petitioner filed another WP No.8534/1994 seeking directions to the Government to pass appropriate orders. Finally, the Government passed orders in G.O. Rt. No. 148 stating that the school which was shifted to Saraswathipuram was deemed to be the original school with recognition and the aid and that the school established by the 5th respondent has to be treated as a new school where the 5th respondent was directed to function as Correspondent. The Joint Director of School Education passed orders on 3-5-1987 directing the 3rd respondent to send the proposals for recognition of the school at Saraswathipuram and directed the teachers working at Parvathipuram to report to Saraswathipuram school. Even though the teachers reported at Saraswathipuram, the petitioner did not admit them in view of the status quo orders dated 30-4-1987 in WP No.9127/1987 filed by the 5th respondent challenging the G.O. Rt. No.148, dated 11-2-97.

6. Counter-affidavit has been filed on behalf of the 5th respondent and the Government produced the original files relating to the matter.

7. Heard the learned Counsel for the petitioners, the 5th respondent and the learned Government Pleader.

8. The order passed by the DEO - 3rd respondent dated 24-3-1988 was set aside by the High Court and the Government was directed to pass fresh orders after hearing the petitioner. But, however, it so happened that the 5th respondent filed an application "For Being Mentioned" before this High Court stating that this Court observed that the 5th respondent did not file any appeal before the competent authorities, but the 5th respondent in fact filed an appeal u/s 89 of the Act and therefore the said appeal should also be considered. This Court accordingly, directed that the appeal if any filed by the 5th respondent should also be considered by the Government.

9. The learned senior Counsel appearing for the petitioner submits that the Government has acted illegally in passing the impugned order. This Court only directed the Government to give an opportunity to the petitioner and pass orders. That apart, the appeal of the 5th respondent filed u/s 89 of the Act was also directed to be disposed of.

10. The question that arises for consideration is whether the 5th respondent has filed any appeal u/s 89 of the Education Act. It is only when the appeal is filed it is incumbent on the part of the Government to consider the same in accordance with the law. It was vehemently urged by the learned senior Counsel for the petitioner that no such appeal was filed by the 5th respondent and therefore the question of considering the same does not arise. On the other hand, the learned Counsel appearing for the 5th respondent submits that an appeal was filed on 24-3-1988 before the Minister and the same was dealt with in accordance with the rules and therefore the contention that no appeal was filed is absolutely false, it is also brought to the notice of this Court by the learned Counsel for the petitioner that the order itself was signed on 25-3-1988 by the DEO and it is

unthinkable that the 5th respondent could have filed an appeal a day earlier to the issuance of the proceedings. Thus, the so called filing of the appeal is nothing but a step and to gain an entry into the matter, which is pending with the Government. From a perusal of the subject heading in the G.O. it looks as though the Government was considering the appeal of the 5th respondent in pursuance of the orders of this Court in WP No.12841/1988 filed by the petitioner Sri Ramakrishnaiah. In fact the direction was to give an opportunity to the petitioner Ramakrishnaiah and to dispose of the same. By virtue of the orders of this Court the Government ought to have considered the representation of Sri Ratnasabhapathi and another made against the order of 3rd respondent dated 24-3-1988 treating as revision u/s 90 of the Act and duly giving an opportunity to the petitioner. And incidentally on a letter filed by the Counsel for the 5th respondent that if any appeal was filed by the 5th respondent u/s 89, the same may also be considered. But, what is observed from the impugned G.O. is that the Principal direction of this Court was given a complete go by and a subsidiary direction was treated as main issue. Be that as it may, in order to factually verify the situation as to whether the 5th respondent filed an appeal u/s 89 of the Act, I have called for the original file from the Government. In the reference No.2 of the G.O. it was stated that "Appeal of Sr iM.D. Mallikarjuna, dated nil received on 6-4-1988." To confirm this, it is necessary that the Government should have in its records, the said appeal dated nil and there should have been an endorsement of the officer having received on 6-4-1988. I have perused the records produced by the Government, and I am surprised to see that no such appeal is available in the records of the Government. There was neither any representation much less an appeal filed by the 5th respondent filed u/s 89 of the Act can be traced out in the records. It is only on 15-5-1989 after the judgment in WP No. 12841/88 dated 13-4-1989 the 5th respondent addressed a letter to the Secretary referring to the judgment of this Court in WP No.12824/1988. The relevant para is extracted below:

"Aggrieved by the orders of DEO Cuddapah, dated 24-3-88, I submitted a representation to the Hon. Minister for Education, with a copy to the Director of School Education, A.P. Hyderabad. I also submitted an appeal dated 21-4-88 to the Hon. Minister for Education, Government of Andhra Pradesh, Hyderabad, with a copy to the Director of School Education, Hyderabad and another appeal to the Hon'ble Minister again on 16-5-88. I submit that I have also filed an appeal dated 5-7-88 before the Regional Joint Director of School Education, Cuddapah. I further submit that I filed an appeal petition dated 20-10-88 before the Secretary, Department of Education, Government of Andhra Pradesh, Hyderabad with a copy to the Director of School Education, Hyderabad and District Educational Officer, Cuddapah, I submit that my above appeals/ representations are still pending undisposed. Copies of the same are enclosed for ready reference. Since the Honourable High Court has directed the Government to dispose of the matter afresh and in view of the fact that my appeal is pending, I request that I may also be given an opportunity of personal hearing before

deciding the matter."

It is only to this letter a copy of the representation said to have been submitted to the Government on 24-3-1988 was enclosed. The Memorandum contained two pages and the representation alleged to have been made contained 9 pages. Even in the memorandum, there is no reference to the order of the DEO para 6 is extracted below:

"So, in the wake of all the above facts and also the details contained in the representation enclosed hereto the nomination made by the management of the SPBVD Sabha High School, Upparapalle u/s 24(2) of the Andhra Pradesh Education Act No.1 of 1982 in pursuance of the Director's direction nominating Sri M.D. Mallikarjuna as Correspondent for the time being is proper and just. It is therefore humbly prayed that the Honourable Minister for Education will kindly do justice in ordering the implementation of Director's direction and to approve the nomination made by the management adhering to all the provisions and rules, governing the issues."

It was only mentioned in para 9 of the representation referring to the proceedings of the DEO dated 24-3-88 which are extracted below:

"Notwithstanding that the management of SPBVD Sabha u/s 24(2) of the A.P. Education Act, nominated and recommended the name of its President Sri M.D. Mallikarjuna for appointing him as Secretary-cum-Correspondent. The DEO Cuddapah without nominating the said person, had in his letter RC No.94/A3.84, dated 2-2-1988 directed the handing over of all the records to the Head Master of the Institution, which is contrary to the provisions of the Education Act.

Further more, the DEO (FAC) Cuddapah in his RC No.94.A3/84, dated 24-3-88 has chosen to appoint M. Ramakrishna, s/o M.N. Venkaiah as Secretary-cum-Correspondent. The said Ramakrishnaiah is a rival contender and the man responsible for the present litigation. It is unfortunate that the DEO should select the rival contender, ignoring the lawful recommendations of the management. u/s 24(2) of the Act, the DEO has to appoint as per the nomination by the management. Therefore, the appointment made by the DEO (FAC) Cuddapah in RC No.94.A3/84, dated 24-3-88 is illegal, arbitrary and void. The nomination of Sri M.D. Mallikarjuna to be appointed as Secretary-cum-Correspondent is perfectly valid and binding on the authorities.

It is, therefore, prayed that the Honourable Minister may be pleased to suspend the appointment of M. Ramakrishna, as Secretary-cum-Correspondent vide DEO (FAC) Cuddapah Order No. RC No.94.A3/84, dated 24-3-88 and further direct that MA Mallikarjuna as nominated by the Sabha to be appointed as Secretary-cum-Correspondent of SPBVD Sabha, immediately."

But, the question that falls for consideration is whether these representations or appeals can be said to have been in fact filed before the Government on 24-3-1988. As can be seen from the original GO it is seen that it was signed on

25-3-1988 though it was dated 24-3-1988. Therefore, until 25-3-88 it could not have been issued to various departments. Thus, it is incomprehensible that the 5th respondent could have filed a representation on 24-3-1988. More over such a representation does not find place datewise in the file maintained by the Government. The Government virtually was not aware of such representation or appeal. Therefore, it should be treated as if there is no such representation or appeal. It is only on filing the alleged copies of the representation, alongwith the representation dated 15-5-1989, the Government appears to have taken note of it and proceeded to consider the said representation as if they have been filed on 24-3-1988. Even from the Minutes file there is no such reference to the communications alleged to have been sent by the 5th respondent on 24-3-1988. It is not understood in the G.O. how it was stated that the appeal dated nil was received on 6-4-1988. If the appeal was in fact received, it should have mentioned the date as 24-3-1988 and the reasons for mentioning the nil date are not forthcoming. Moreover even if the appeal was despatched by the 5th respondent on 24-3-1988 and if the same is received on 6-4-1988 some officer should have made initials in the original communication received from the 5th respondent. There are no such original communications at all and this Court seriously suspects the bow fides on the part of the Government in dealing with the matter. No cognizance can be taken to the enclosures made to the representation dated 15-5-1989 unless the said originals are available in the file at the relevant date and time. In the order of this Court in WP No. 12841 of 1988 where the petitioner challenged the order of the 3rd respondent dated 24-3-1988 this Court clearly observed as follows:

"Sri Mallikarjuna who claims to have been nominated by the governing body of the institution as the Correspondent, did not prefer any appeal against that order. Though right of appeal as provided u/s 89 of the Act."

Even in a petition filed by the 5th respondent for impleading him as a parry respondent in the said writ petition only stated in his affidavit that unfortunately the 3rd respondent herein without considering the resolution had appointed the petitioner as Correspondent of the Sabha High School to manage the affairs of the School in his RC No.95/88, dated 24-3-1988 soon after he made several representations including to some prominent persons of the area. This itself shows that no appeal has been filed and the genuineness of the so called representation is very much doubted as he did not file any such copies of the representation as material papers in the petition to implead in the aforesaid writ petition. At no point of time did he state that he filed an appeal u/s 89 of the Act and the same is pending with the Government. But, however, it appears that he filed a letter after the order passed in the above representation on 13-4-1988 by the Counsel on 12-8-1989 to the effect that he had filed an appeal to the Honourable Minister for Education on 24-3-1988 followed by reminders on 21-4-1988 and 16-5-1988 and requested the Court to pass further orders with regard to the disposal of the appeal. After being mentioned, this Court passed the following order:

"If any appeal is preferred by Sri Mallikarjuna u/s 89 of the Act, the same may be heard and disposed of in accordance with law."

It is only after such a further order was passed by this Court, the 5th respondent filed a representation on 15-5-1988 enclosing those representations. But the fact remains that these representations never formed part of the record of the Government at any point of time. Even in the Minutes file at page 7 it was stated "Sri Mallikarjuna has not preferred any appeal u/s 89 of the Education Act". However, a representation of Sri Mallikarjuna dated nil was received on 6-4-1988 which may be seen at pps 1-16 marked as Flag-A and the said pages are not available. Thus, it is clear that the 5th respondent never submitted any representation on 24-3-1988 as alleged by him. Even if any representation that was received by the Government that was not having any date and that is why it was mentioned in the G.O. nil received on 6-4-88. Even assuming that such a representation was received for the sake of arguments on 6-4-88 can it be treated as a appeal u/s 89 of the Act. The Counsel in his letter to this Court on 21-4-1989 had clearly stated that the 5th respondent preferred an appeal against the proceedings dated 24-3-1988. But the Government ought to have seen that they should consider the matter only if the appeal is filed by the 5th respondent u/s 89 of the Act. Admittedly, no such appeal is filed u/s 89 of the Act. Any representations alleged to have been made by the 5th respondent cannot be construed as having filed an appeal under the Act. Even it is also confirmed in the Minutes file that no appeal is filed u/s 89 of the Act. Therefore, it is to be held that the 5th respondent never filed any appeal against the orders of the 5th respondent dated 24-3-88. The 5th respondent has thus virtually misrepresented the facts to this Court and tried to gain entry into the revision proceedings initiated by the MLA. Even in the impugned G.O. in para 4 the Advocate appearing for the 5th respondent changed his stand and requested for passing the orders u/s 90 of the Education Act allowing revision filed by the petitioner to set aside the orders of the DEO Cuddapah dated 28-3-88 appointing Sri Ramakrishnaiah as Correspondent and for approving Sri Mallikarjuna as Correspondent of the school. Thus, I find any amount of inconsistencies in the stand taken by the 5th respondent. Even though the contention was advanced by the advocate for the petitioner that no appeal was filed, the Government rejected the same saying that as per the judgment of this Court the representation was treated as an appeal. Para 19 is extracted below:

"19. The contention of the respondent Sri M. Ramakrishnaiah that there is no appeal petition of Sri M.D. Mallikarjuna pending with Government is not correct. In fact there was a representation received by the Government on 6-4-1988. As per the judgment of the High Court dated 13-4-1989 the above representation of Sri M.D. Mallikarjuna was considered as an appeal for disposal by the Government."

As can be seen from the above contention, that this Court never stated that the representation of the 5th respondent should be considered as an appeal, this

Court only clarified that if any appeal is filed u/s 89 the same should be disposed of. Therefore, the Government made entire exercise in futility. When there is no Valid appeal filed under the appropriate provisions of the Act namely Section 89, the question of considering the representation of the 5th respondent does not arise. But, for the reasons best known to the Government more weight appears to have been given to the representation rather than the matter which ought to have considered after remand by the High Court. In any event a mere representation and a statutory appeal under the Act stands on different and distinct footing and even assuming that certain representations were filed by the 5th respondent they cannot be treated as appeals u/s 89 of the Act. Obviously the 5th respondent taking advantage of the observation of this Court to the effect that the appeal filed by him u/s 89 may also be considered, had played fraud on this Court by abusing the process of this Court. There are also incriminating circumstances to hold that the 5th respondent did not conduct himself in a fair and reasonable manner. The Government also appears to have turned its decision to suit the 5th respondent without applying its mind to the remand order passed by this Court. This Court depreciates the casual attitude adopted by the Government in dealing with the matter by deliberately circumventing the specific directions of this Court. The 5th respondent had virtually tried to meddle with the records and tried to misdirect the course of justice. Such a person cannot be shown any sympathy by this Court. A person who approaches this Court by resorting to misrepresentations and manipulations should be dealt with seriously. Therefore, I find that the conduct of the 5th respondent is highly reprehensible and smacks of great suspicion. The Government did not even refer to the allegations made by Sri Ratna Sabhapathi in the impugned order. Further the Government was under the impression that Memo dated 12-8-1988 (which was the subject-matter of WP No.12841/88 filed by Mr. Ramakrishnaiah) was issued on an appeal filed by Mr. Mallikarjuna. The relevant sentence reads thus:

"On the appeal of Sri M.D. Mallikarjuna received on 6-4-1988 the Government in Memo N0.1038/SS.2/88, Edn., dated 12-8-1988 directed that the orders passed by the District Educational Officer, Cuddapah in his proceedings dated 24-3-1988 as invalid u/s 24(4) of Andhra Pradesh Education Act, 1982. The Director of School Education was directed to take suitable action duly following procedure if any. Aggrieved by the said orders of the Government Sri Ramakrishnaiah filed Writ Petition No.12841/88 in the High Court."

While in fact the orders in Memo dated 12-8-1988 were passed on the representations of Sri Ratna Sabhapathi and Sri M.C.V. Stibbaiah. Again in para 20 of the G.O. it is stated that the appeal of Mr. Ramakrishnaiah was rejected while in fact no appeal at all was filed by him. Thus, I find total non application of mind by the Government. This Court directed to consider the representation of the former MLA by treating it as a revision and by giving opportunity to the petitioner. But what was done by the Government was quite contrary to the directions. It never referred to the representations nor such representations were

furnished to the petitioner, but on the other hand it had proceeded as if an appeal was filed by the 5th respondent. Thus, I find that the impugned G.O. is wholly illegal and arbitrary.

11. The learned Counsel for the petitioner also submits that an earlier occasion when the matter was considered by the Government in G.O. Ms. No.1594, dated 27-11-1987 it was felt by the Government that it cannot go into the legality of the constitution of the governing bodies. Yet in the impugned order the Government had gone into it and rendered a finding. He thus submits that the Government cannot take two stands at different time while dealing with the same matter. I am not inclined to go into this aspect since I held that the impugned order as illegal.

12. For the aforesaid reasons, I hold that the impugned G.O. is illegal and arbitrary and accordingly it is set aside. The situation that emerges from the above order is that petitioner shall be deemed to be the Correspondent of the School by virtue of the orders passed by the 3rd respondent dated 24-3-1988. In view of the unfair attitude of the 5th respondent though it is a fit case for directing his criminal prosecution for misrepresenting the facts before the Government and also before this Court, this Court feels that mulcting the 5th respondent with exemplary costs would meet the ends of justice. Accordingly, the writ petition is allowed with costs of Rs. 10,000/- (Rupees ten thousand only) to be paid by the 5th respondent to the petitioner.

13. Off late this Court has been observing there is spate of litigation coming up before this Court with regard to the inter se disputes of the managements of the schools and also the Correspondentships. Imparting education is one of the pious obligations of the society and also the individuals. But the way in which the litigation is brought up before this Court gives an indication that it has almost become commercial ventures and the managements of the schools are divided into groups and have been litigating for years together. This type of situation would seriously harm the interest of the students as well as the teaching and the non-teaching staff. Though the establishment of educational institutions can be traced to the fundamental right under Article 19(1)(g) of the Constitution of India and also the Article 30 of the Constitution of India. Yet, this type of perennial litigations have to be avoided. u/s 24 of the Education Act, the Correspondent is required to be nominated by the management and the same has to be approved by the Government under the grant-in-aid code. But, however, this Correspondentship has become very precious commodity for the management and enormous litigation is being brought before this Court. Therefore, it is time that the Government should review this section and suitably bring an amendment so as to denude or regulate the power of the managements to nominate the Correspondents. This would not only save the precious time of the students and also the staff of the institution and also avoid any amount of litigation to the Government.

14. WP No.9127/1997 was filed by Sri Mallikarjuna challenging the orders passed

by the Government in G.O. Rt. No. 148, dated 11-2-1997 and consequential proceedings of the Commissioner and Director of School Education dated 21-4-1997. As already narrated earlier this Court in WP No. 14659/92 and WP No.8534/1995 directed the Government to enquire into the representation made by Mr. Ramakrishnaiah dated 26-11-91 and pass appropriate orders. In pursuance of the said direction the Government after considering the enquiry report passed the following orders in G.O. Rt. No. 148, dated 11-2-1997:

"13. The Government after thorough examination of the matter and after perusing the enquiry report and other reports of the Commissioner & Director of School Education and the material available on record have considered that the following orders be passed in obedience to the orders of the High Court referred to in the earlier paras dated 6-11-92 and dated 294-1994.

(i) Sri M.D. Mallikarjuna shall continue to act as Correspondent of the School located at Parvathipuram and Sri M. Ramakrishnaiah to continue to act as Correspondent of the School at Saraswathipuram at New Upparapally. This arrangement is subject to the outcome of the result in WP No.9961/90 pending on the High Court of Andhra Pradesh;

(ii) the recommendation of the Commissioner & Director of School Education that the school located at Saraswathipuram shall be deemed to be the original school with recognition and aid, it was enjoying before it was shifted from the submerged area of Upparapally is accepted;

(iii) the teachers who were originally with the school during the year 1987 and later defected to the school run by Sri M.D. Mallikarjuna be summoned back fixing a time limit for their return upto one month with instructions that they have to face the consequences as per the rules in force if they do not go back to their original school;

(iv) the schools now running at Parvathipuram under the Correspondentship of Sri M.D. Mallikarjuna be permitted to enjoy the recognition (without aided post) since the District Educational Officer and the Regional Joint Director of School Education have recognised the school in view of the High Court orders; and

(v) the salaries to the teachers) stayed back and working in the schools at Saraswathipuram, Upparapally under the Correspondentship of Sri M Ramakrishnaiah be paid from the date of their eligibility i.e. from displacement of the schools due to submersion.

14. The Commissioner & Director of School Education shall initiate necessary action against the officials responsible for the irregularities reported to have been committed by them in dealing with the case."

The said orders are challenged in this writ petition. In view of the facts that I have already set aside the G.O. Rt. No. 1109, dated 2-7-90 and Sri Ramakrishnaiah was held to be validly nominated Correspondent, I do not find any illegality or irregularity in the order. Accordingly, the WP is dismissed and the direction given

in the G.O. shall be complied forthwith by the concerned authorities.

15. WP Nos.6074/97 and 3686/98 and 9470/92 filed by M.D. Mallikarjuna are dismissed. No costs. WP No.3868/91 was filed by Mr. Ramakrishnaiah questioning the order of the DEO directing the teachers to join the school run by Mr. M.D. Mallikarjuna is allowed in view of the orders passed in WP No.9961/90. No costs.