
(2002) 04 AP CK 0017

In the Andhra Pradesh High Court

Case No : WA No's. 739 and 790 of 2002 and WAMP No. 1387 of 2002

S.P.S. Public School, Visakhapatnam

APPELLANT

Vs

Wakf Board and Others

RESPONDENT

Date of Decision : 18-04-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 ALD 344 : (2002) 3 ALT 232

Hon'ble Judges : Ar. Lakshmanan, C.J.;Gopalakrishna Tamada, J

Bench : Division Bench

Advocate : D.V. Seetharama Murthy and K.G. Kannabiram, for T. Vekat Reddy, for the Appellant; Government Pleader for School Education, K. Ramavenkata Reddy, SC for O.U., S.R. Ashok, for P. Yadgiri Rao, A.M. Qureshi, SC, Koona Reddy and Anji Reddy, for the Respondent

Judgement

Dr. Ar. Lakshmanan, C.J.—Writ Appeal No. 739 of 2002 is filed by SPS Public School, Visakhapatnam against the judgment of the learned single Judge dated 26-3-2002 in Writ Petition No. 20519 of 2001.

2. The students, who were not parties to Writ Petition No. 20519 of 2000, filed Writ Appeal (Sr.) No. 36363 of 2002 aggrieved by the order in the said writ petition with a leave petition praying this Court to direct the Council for Indian School Certificate Examinations to permit them as students of first respondent-Institution or through any other recognised school to write ICSE 10th class examination in Hindi Papers I and II scheduled to be held on 19-4-2002 and 22-4-2002.

3. Since the appellants/students are affected by the said order, we grant them leave to appeal against the judgment in Writ Petition No. 20519 of 2001 and heard the arguments advanced by their Counsel Sri D. V. Sltarama Murthy.

4. Writ Appeal No. 739 of 2002 was argued by Sri E. Manohar, leaned senior advocate, and on behalf of the Council for Indian School for Certificate

Examinations, Sri S.R. Ashok, senior advocate appeared and argued the case.

5. Though several contentions have been raised by the appellant-school and also the appellants-students, learned senior advocate appearing for the appellant-school invited our attention to the observations made by the learned single Judge in the concluding part of his judgment, which reads thus:

"In view of the same, if the petitioner-school fulfils all the conditions which are required, which were pointed out by the third respondent in their letter dated 31-1-2001, for grant of affiliation, it can re-apply for provisional affiliation and on making such application, the third respondent can inspect the school once again to know whether the petitioner-school complied with all the defects pointed out earlier or not and on such inspection, if the third respondent is satisfied that the petitioner-school fulfils the required conditions for provisional affiliation, the third respondent shall pass appropriate orders. Before grant of provisional affiliation by the third respondent, the petitioner-school shall not admit students to IX, X, XI and XII classes during the academic year 2002-2003 and the third respondent shall issue a notification to the said effect in local News Papers."

6. Learned senior advocate after inviting our attention to the above paragraph submitted that the management of appellant-school will approach the third respondent-Council for grant of affiliation. The appellant-school is therefore directed to comply with all the deficiencies/defects pointed out earlier. The third respondent-Council after receiving the intimation from the management of appellant-school shall depute its officers for local inspection in order to satisfy itself that the appellant-school fulfils the required conditions for provisional affiliation and on being satisfied shall grant provisional affiliation to the appellant-school.

7. So far as the writ appeal filed by the students is concerned, learned Counsel for the appellants submitted that since students were permitted by earlier Court orders to complete all other examinations, except Hindi Papers-I and II, this Court should issue a direction to the third respondent-Council to permit the students to take examination on those two papers so that interest of justice will be amply met.

8. When the matter was heard on the last occasion, we directed Sri S.R. Ashok, learned Counsel appearing for the third respondent-Council to ascertain from the third respondent as to whether the students can be permitted to take the examination on those two papers. Today when the case was taken, up, Sri S.R. Ashok submitted that the response from the third respondent was not so encouraging. In support of his contention Sri S.R. Ashok relied on the judgments reported in *State of Tamil Nadu and Others Vs. St. Joseph Teachers Training Institute and Another*, *Mallikarjuna Mudhagal Nagappa and Others Vs. State of Karnataka and Others*, *C.B.S.E. and Another Vs. P. Sunil Kumar and Others*, *Guru Nanak Dev University Vs. Parminder Kr. Bansal and another*, *Nagarjuna University Vs. St. Anthony Educational Society and others*, and *Registrar, OU., v.*

Madina Educational Society 1996 (2) ALD 65 (DB). We have perused all the judgments. In those judgments, the Supreme Court has observed that any direction of the nature sought for permitting the students to appear at the examination without the institution being affiliated or recognised would be in clear transgression of the provisions of the Act and the regulations, that the Court cannot be a party to direct the students to disobey the statute as that would be destructive of the rule of law and that the Courts cannot grant relief of the students on humanitarian grounds.

9. Since the appellant-school is an unrecognised institution, the students studying there are not legally entitled to appear at the examination. Though we have much sympathy towards the students, but our hands are tied in view of the above Supreme Court judgments. However, we permit the students again to apply to the third respondent-Council seeking permission to appear for the two papers of Hindi Papers I and II. The representation shall be made within one week to the third respondent-Council. If such a representation is received, we request the third respondent-Council to consider the said representation sympathetically and on considering the future prospects of the students and pass appropriate orders.

10. No other contentions were advanced by all the Counsel. Writ Appeal Nos.739 of 2002, Writ Appeal No. 790 of 2000 and WAMP No. 13 87 of 2002 are disposed of accordingly.