

(2013) 08 KAR CK 0041

In the Karnataka High Court

Case No : Writ Appeal No. 8730 of 2012 (EDN-RES)

Venkataramana Education Trust (R)

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Constitution of India, 1950 — Article 133, 134A, 30(1)

Citation : (2013) 4 AKR 863 : (2013) 5 KarLJ 215 : (2013) 4 KCCR 3452

Hon'ble Judges : Ravi Malimath, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : V. Viswanath, for the Appellant; M. Keshava Reddy, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.—There is a delay of 107 days in filing the appeal. Being satisfied with the cause shown by the appellant, the delay of 107 days in filing the appeal is condoned. Accordingly, IA No. 1 of 2012 is allowed. The legality and correctness of the order passed by the learned Single Judge in W.P. No. 17915 of 2012, dated 19-7-2012 is called in question in this appeal.

2. The facts leading to this appeal are hereunder:

The appellant is a Konkani Linguistic Minority Educational Society, which Society has come into existence in the year 1971. The Trust is running several institutions from 24-1-1996. The State of Karnataka has given financial aid to the appellant-Institution as per the provisions for Grant-in-Aid Code for Primary and Secondary Schools framed u/s 145 of the Karnataka Education Act, 1983.

3. As per Annexure-A, dated 3-9-2010, a notification has been issued by the State of Karnataka that the aided institutions shall follow the reservation while appointing the teaching and non-teaching faculty in the School run by the Linguistic Minority Educational Society. Challenging the legality and correctness of Annexure-A, the appellant filed a writ petition before the learned Single Judge.

The learned Single Judge, having examined the case of the parties, considering Rule 17 of the Grant-in-Aid Code for Primary and Secondary Schools framed u/s 145 of the Karnataka Education Act, 1983, which provides for appointment of the staff, came to the conclusion that the notification cannot be quashed as the appellant-Institution is receiving the grant from the State. He has further held that as long as the petitioner/appellant-Society is receiving the grant, the appellant cannot be permitted to contend that the Government has no power to direct the appellant to follow the roster system in appointing the teaching and non-teaching faculty in the Institutions run by the appellant-Trust.

4. The learned Counsel for the appellant had also relied upon the judgment of the Hon'ble Supreme Court in the case of *Sindhi Education Society and Another Vs. The Chief Secretary, Govt. of NCT of Delhi and Others*, . The learned Single Judge, having examined the aforesaid judgment, came to the conclusion that the facts involved in the said case and the facts involved in the present case are entirely different and that the aforesaid judgment has no relevance to the facts of the case. Accordingly, the petition came to be rejected. Challenging the legality and correctness of the same, the present appeal is filed.

5. Having heard the learned Counsel for the appellant and the learned Government Advocate, it is not in dispute that the appellant is a Linguistic Minority Educational Society. The said status has been granted to the appellant by the State of Karnataka. It is also not in dispute that the appellant is receiving financial aid from 24-1-1996. When the appellant is receiving the grant, there cannot be any difficulty for the appellant to follow the roster system while appointing the teaching and non-teaching faculty in the Institution. It is the duty and responsibility of the State to see that the mandate of the Constitution is implemented in its letter and spirit while appointing the persons belonging to Scheduled Caste and Scheduled Tribe and other minorities. When the Government has given the aid, the appellant cannot be permitted to contend that Linguistic Minority Educational Institution is not bound by the directions issued by the State of Karnataka. The appellant can certainly contend so if the appellant is not receiving any aid. Therefore, we are of the view that no error is committed by the learned Single Judge in rejecting the writ petition.

6. So far as the judgment relied upon by the appellant is concerned, the High Court of Delhi, a Bench hearing the letters patent appeal in the High Court of Delhi, while setting aside the judgment passed by the learned Single Judge dated 14-9-2005 in WP (C) No. 2426 of 1992, issued a certificate of leave to appeal under Article 133 read with Article 134A of the Constitution of India, framed the following questions to be decided by the Hon'ble Supreme Court:

(a) Whether Rule 64(1)(b) of the Delhi School Education Rules, 1973 and the orders/instructions issued thereunder would, if made applicable to an aided minority educational institution, violate the fundamental right guaranteed under Article 30(1) of the Constitution and are the respondents herein entitled to a declaration and consequential directions to that effect?

(b) Have the judgments of the learned Single Judge of the High Court in *Sumanjit Kaur v. NCT of Delhi* 2005 (3) AD 560 (Del.), as affirmed by the decision dated 1-2-2006 of the Division Bench of the High Court in (LPA Nos. 445 and 446 of 2005) *Government of National Capital Territory of Delhi v. Sumanjit Kaur* been correctly decided?

7. While answering those questions, considering the relevant provisions of the Delhi School Education Rules, 1973, Their Lordships have ruled thereunder. But, it is not the case of the appellant that the Delhi School Education Act and Rules, 1973 can be made applicable to the facts of this case or the Act and Rules of the State of Karnataka and are in *pari materia* with the Act and Rules of the Delhi School Education. In the circumstances, we do not see any merit in this appeal.

Accordingly, appeal is dismissed.

In view of the disposal of the appeal, I.A. No. 2 of 2012 does not survive for consideration and is accordingly dismissed.