



IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI
TUESDAY, THE TWELFTH DAY OF DECEMBER,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE G.NARENDAR
AND
THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT APPEAL Nos.1229, 1231, 1232, 1233, 1234 & 1253 OF 2023

WRIT APPEAL NO: 1229 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.16661 of 2019, dated 06.10.2023 on the file of the High Court.)

Between:

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District A P.
2. The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.

Appellants/Respondents

AND

1. S Srinivasa Rao, S/o.S Paparao, Aged 50 years, Occ Lecturer in P G Department of Commerce, T J P S College Guntur, R/o Flat No 12, H No 121517, Kakumanu Soudha Apartments, Guntur, Guntur District, A P.

Respondent/Petitioner

2. The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur District A P.
3. The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 06.10.2023 in Review I.A.No.1 of 2020 in W.P.No.16661 of 2019, pending disposal of WA.No.1229 of 2023, on the file of the High Court.

WRIT APPEAL NO: 1231 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.16657 of 2019, dated 06.10.2023 on the file of the High Court.)

Between:

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District A P.
2. The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.,

Appellants/Respondents

AND

1. G Suresh Kumar, S/o G Panaiah, Aged 37 years, Occ Lecturer in Commerce Guntur, R/o D No 2103 A, Agathavarappadu, Pedakakani Mandal, Guntur District A P.

Respondent/Petitioner

2. The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur Guntur District, A P.
3. The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A.P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 06.10.2023 in Review I.A.No.1 of 2020 in W.P.No.16657 of 2019, pending disposal of WA.No.1231 of 2023, on the file of the High Court.

WRIT APPEAL NO: 1232 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.16658 of 2019, dated 06.10.2023 on the file of the High Court.)

Between:

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, A P.
2. The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.

Appellants/Respondents

AND

- 1 K Kavitha, D/o K V Narayana, Aged 41 years, Occ Lecturer in Mathematics T J P S College, Guntur, R/o D No 134275/A, 1st Line Satyanarayanapuram, Guntur, Guntur District, A P.

Respondent/Petitioner

- 2 The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur Guntur District, A P.
- 3 The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A.P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 06.10.2023 in Review I.A.No.1 of 2020 in W.P.No.16658 of 2019, pending disposal of WA.No.1232 of 2023, on the file of the High Court.

WRIT APPEAL NO: 1233 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.16727 of 2019, dated 06.10.2023 on the file of the High Court.)

Between:

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, A P.
2. The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.

Appellants/Respondents

AND

1 N Sraitha, D/o N Ruben, Aged 43 years, Occ Lecturer in Economics, T J P S College, Guntur, R/o D No 133298, 9th lane, Netajinagar, S V N Colony, Guntur Guntur District, A.P.

Respondent/Petitioner

- 2 The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur, Guntur District, A P.
- 3 The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A.P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 06.10.2023 in Review I.A.No.1 of 2020 in W.P.No.16727 of 2019, pending disposal of WA.No.1233 of 2023, on the file of the High Court.

WRIT APPEAL NO: 1234 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.16708 of 2019, dated 06.10.2023 on the file of the High Court.)

Between:

- 1 The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, A P.

- 2 The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.

Appellants/Respondents

AND

- 1 P.Kumar Raja, S/o P Thomas, Aged 39 years, Occ Lecturer in Political Science, TJPS College, Guntur, R/o D No 5602/88, 8th lane, Cobaldpeta, Guntur, Guntur District, A P.

Respondent/Petitioner

- 2 The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur, Guntur District, A P.
- 3 The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A.P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 06.10.2023 in Review I.A.No.1 of 2020 in W.P.No.16708 of 2019, pending disposal of WA.No.1234 of 2023, on the file of the High Court.

The Appeal coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of GP for Higher Education for the Appellants, SRI.G.ELISHA Advocate for the Respondent No.1.

WRIT APPEAL NO: 1253 OF 2023

(Writ Appeal under clause 15 of the Letters Patent Act is preferred against the Order made in Review I.A.No.1 of 2020 in W.P.No.25625 of 2013, dated 31.10.2023 on the file of the High Court.)

Between:

- 1 The State of Andhra Pradesh, Rep by its Principal Secretary, Higher Education Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, A P.
- 2 The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P.

Appellants/Respondents

AND

- 1 P.Jannamma, Aged 39 years, Occ. Presently Working as Lecturer in History (Un-Aided), J.M.J Convent, Morrispet, Tenali, Guntur District.

Respondent/Petitioner

- 2 The Correspondent Secretary, T J P S College, Pattabhipuram, Guntur, Guntur District, A P.
- 3 The Principal of T J P S College, Pattabhipuram, Guntur, Guntur District, A.P.

Respondents/Respondents

IA NO: 1 OF 2023

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ appeal, the High Court may be pleased to SUSPEND the operation of order of dated 31.10.2023 in Review I.A.No.1 of 2020 in W.P.No.25625 of 2013, pending disposal of WA.No.1253 of 2023, on the file of the High Court.

The Appeal coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated 07.12.2023 made herein and upon hearing the arguments of Sri Raghuvver, GP for Higher Education and Senior Counsel Sri G.Gangaiah Naidu, the Court made the following

ORDER:

"Heard Sri Raghuvver, learned Government Pleader for Higher Education and learned Senior Counsel Sri G. Gangaiah Naidu.

Sri J. Syamal Rao, Principal Secretary for Higher Education and Sri Pola Bhaskar, Commissioner of Collegiate Education was present and a compilation of papers was provided to the Court, including G.O.Ms.No.42 dated 10.08.2021. A perusal of the said G.O. reflects the establishment of a Committee to rationalize the grant-in-aid concept and which Committee has gone into various aspects of the education system and noticed various factors which have resulted in the deterioration or fall in the standards in colleges with aided posts and has recommended for discontinuance of the policy and the State Government accepting the said recommendation under the G.O has stipulated several options for institutions with aided posts, which measure in our opinion appears to be viable and prudent measures.

There is no doubt that a duty is cast on behalf of the State to provide or rather ensure facilitation of higher education to the needy and deserving students. It is not that any fundamental right is vested with students, but yet, imparting of higher education is of utmost necessity in order to ensure academic advancement and thereby enable the students populace to assure more employment opportunities and secure their future. We are also of the *prima facie* opinion that it is something which the State should not be seen avoiding.

The material placed before us reveal a fall of intake by the private aided institutions, thereby resulting in serious under utilization of resources on one hand and serious shortage of faculty and staff in some other institutions.

The learned Senior Counsel would submit that an impasse was created on account of a vexed recruitment policy introduced by the State, which resulted in a docket explosion, which litigation is of more than 2 decades old where the parties, which includes the individuals who have been appointed against unaided posts, approaching this Court to have their services absorbed as against the aided posts and orders have been consistently passed since 2000 and 2001, whereby, the Courts have been directing the regularization/absorption of such petitioners now and then.

It is also submitted by the learned Senior Counsel that such litigation has been taken before the Divisional Bench and also before the Hon'ble Apex Court, wherein both the Courts have given rulings in favour of the petitioners, and hence the same has been adopted as an yardstick by successive benches to grant reliefs to the petitioners, who seek such similar relief.

We have examined the directions in the background of the pronouncement of judgment by the Constitutional Bench of the Hon'ble Apex Court in *Secretary, State of Karnataka and Ors. Vs. Umadevi and Others*¹ and successive line of judgments.

The law has been well settled by the Constitutional Bench in *Uma Devi's [supra]*, yet the Courts have taken note of the fact that some of the candidates have put in decades of service.

In this background, we have interacted with the Principal Secretary for Higher Education and Commissioner of Collegiate Education and the Principal Secretary, who has put across his views and submitted that the earlier onetime policy was devised by the State, which indulged 120 institutions out of 137 institutions volunteering to surrender, resulting in migration and transportation of students and staff to various government colleges. Subsequently, the Government again gave an option to the said 120 colleges to revert or reverse their position, resulting in about 46 colleges seeing for revival of their original status, which was permitted by the State; that as on today, there are about 59 institutions which are enjoying aid.

¹ (2006) 4 SCC 1

It is not in dispute that the petitioners comes before the Court after rendering services of more than a decade or decade and an half and in some cases they have put-in decades of services.

It is exactly the conundrum of this nature that the Constitutional Bench visualized and recommended that the States should resort to a one-time measure to address the anomaly and ensure a quietus. This measure was suggested and a direction was given by the Constitutional Bench, but for the apathy of the system, the Courts would not have been burdened with this branch of litigation.

Hence, we are of the considered opinion that it would be appropriate for the Principal Secretary for Higher Education and the Commissioner of Collegiate Education to work in tandem and come with a viable option within the four corners of law i.e., the law as laid down by the Hon'ble Apex Court and the A.P. Education Act, 1982 and the Act of 1994, in order to give a quietus to this festering issue and also to ensure rationalization and optimal utilization of the funds and resources of the State.

The Principal Secretary for Higher Education has sought for two weeks time to look into the issue and report the measures to be taken.

In that view, we have also requested the learned Senior Counsel Sri. G. Gangaiah Naidu, to pass suggestions, which may be transmitted to the Principal Secretary for Higher Education and also to the learned Government Pleader for Higher Education, which copies shall be placed before this Court by the Registry on the next date of hearing.

List the matter on 27.12.2023.

Learned Government Pleader for School Education has submitted that the grant-in-aid concept in the school education is also going through and faced with a similar conundrum. In that view, the similarity in the nature of issues cropping up for consideration cannot be denied. We would feel it would be prudent if the Principal Secretary for School Education Department and concerned the Commissioner also to look into the issue in the background of the views expressed by this Court.

Copy of this order shall also be forwarded to the Principal Secretary for School Education and also the Commissioner, who may also be present on the next date of hearing. ”

Sd/- M. SRINIVAS
ASSISTANT REGISTRAR

//TRUE COPY//

To,

For

SECTION OFFICER

1. The Registrar (Judicial), High Court of Andhra Pradesh, High Court Buildings, Amaravati, Guntur District.(by Special Messenger to communicate copy of this order by email to Principal Secretary Department of Higher Education and Commissioner, Collegiate Education)
2. The Principal Secretary, Higher Education Department, State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, A P., e.mail:prlsecy_he@ap.gov.in
3. The Commissioner and Director of College Education, Government of Andhra Pradesh, Prasadampadu, Vijayawada, Krishna District A P. e.mail:peshi.cce@gmail.com.(2 & 3 by SPEED POST/E-mail to appear in person before this Court on 27.12.2023)
4. G Suresh Kumar, S/o G Panaiah, Occ Lecturer in Commerce, Guntur R/o D No 2103A, Agathavarappadu, Pedakakani Mandal, Guntur District A P.
5. S Srinivasa Rao, S/o.S Paparao, Occ Lecturer in P G Department of Commerce, T J P S College Guntur, R/o Flat No 12, H No 121517, Kakumanu Soudha Apartments, Guntur, Guntur District, A.P.
6. K Kavitha, D/o K V Narayana, Aged 41 years, Occ Lecturer in Mathematics T J P S College, Guntur, R/o D No 134275/A, 1st Line Satyanarayanapuram, Guntur, Guntur District, A P.
7. N Sraitha, D/o N Ruben, Aged 43 years, Occ Lecturer in Economics T J P S College Guntur, R/o D No 133298, 9th lane, Netajinagar, S V N Colony, Guntur, Guntur District, A.P.
8. P.Kumar Raja, S/o P Thomas, Occ Lecturer in Political Science, TJPS College, Guntur, R/o D No 5602/88, 8th lane, Cobaldpeta, Guntur, Guntur District, A P.
9. P.Jannamma, Occ. Presently Working as Lecturer in History (Un-Aided), J.M.J Convent, Morrispet, Tenali, Guntur District
10. The Correspondent Secretary, T J P S College, Pattabhipuram Guntur Guntur District A P.
11. The Principal of T J P S College, Pattabhipuram Guntur Guntur District A.P. (4 to 11 by RPAD)
12. One CC to GP for Higher Education, High Court of A.P.[OUT] (by Spl.Messenger)
13. One CC to Sri.G.Elisha, Advocate [OPUC]
14. The Section Officer, Writ Posting, High Court of A.P.
15. Two spare copies

HIGH COURT

GNJ & VNJ

DATED:12/12/2023

NOTE: LIST THE MATTER ON 27.12.2023.

ORDER

WRIT APPEAL Nos.1229, 1231, 1232, 1233, 1234 & 1253 OF 2023

DIRECTION

