

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI****MAIN CASE No.: W.A. No. 609 of 2022****PROCEEDING SHEET**

| <b>Sl. No.</b> | <b>DATE</b> | <b>ORDER</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
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| 17.            | 11.12.2023  | <p><b><u>GN,J &amp; VN,J</u></b></p> <p>1) Heard Sri. S.S. Prasad, learned Senior Counsel appearing for the Appellants and Sri.J. Sudheer, learned Counsel appearing for the unofficial Respondents. There is no representation on behalf of the 12<sup>th</sup> Respondent, whose appointment it is alleged is contrary to and against the established practices and has become the bone of contention and which advantage the Petitioners i.e. Respondent Nos. 1 to 10 also seek, be advanced to them also.</p> <p>2) We have perused the policy document of the Government of Andhra Pradesh issued by the General Administration (Ser.A`) Department, by way of Circular, dated 12.08.2003, wherein it contains a provision for making appointment against anticipated acquisition of qualifications, which in our opinion is contrary to established norms.</p> |  |

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|  |  | <p>Despite the Policy, it is seen that on the date of appointment of the Petitioners i.e. Respondent Nos. 1 to 10, the then Executive Officer has deemed it necessary to ignore the Government Policy of making appointments against anticipated eligibility, which in our <i>prima facie</i> opinion appears to be the correct approach.</p> <p>3) The learned Counsel for the Respondents would submit that the 12<sup>th</sup> Respondent [Kum. K. V. Sirija] is not the lone beneficiary of the Policy of 2003 and that several appointments have been made against available vacancies in the anticipation of the appointees securing eligibility in the future.</p> <p>4) Per <i>contra</i>, the learned Senior Counsel submits that, to his knowledge the 12<sup>th</sup> Respondent is the lone beneficiary of the Policy of 2003. The learned Senior Counsel would also submit that the Appellants are taking steps to have the position reversed in-so-far as it relates to the 12<sup>th</sup> Respondent also.</p> |  |
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|  |  | <p>5) Having heard the learned Senior Counsel for the Appellants and the learned Counsel for the unofficial Respondent Nos. 1 to 10, we are of the opinion that the action of the appointment of 12<sup>th</sup> Respondent has resulted in a very queer position, whereby the Petitioners/ Respondent Nos. 1 to 10, who are admittedly seniors to the 12<sup>th</sup> Respondent would now or in a matter of time be required to report to their junior i.e., 12<sup>th</sup> Respondent, as the 12<sup>th</sup> Respondent, though not holding the stipulated qualification has been handed a higher post on a platter in view of the so-called Policy of the State, which permits appointments against anticipated acquisition eligibility.</p> <p>6) In that view of the matter, we place on record the submissions of the learned Senior Counsel that steps are being taken to address the anomaly by reverting the 12<sup>th</sup> Respondent to a position in accordance with her seniority in the post of 'shroff' or in the alternative by extending similar concessions to the Respondent Nos. 1 to 10 and placing them in a position above the 12<sup>th</sup> Respondent.</p> |  |
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|  |  | <p>7) In our view, it is no more <i>res integra</i> that compassionate appointment is required to be addressed on the basis of Rules governing the appointees as on the date of appointment. No-doubt, the Government Policy of 2003 permitted appointments against acquisition of eligibility; implying thereby the person appointed did not possess the eligibility criteria stipulated under the Rules and thereby <i>prima facie</i> resulting in the appointment of an ineligible candidate.</p> <p>8) Be that as it may, in view of the stand expressed by the learned Senior Counsel, we deem it appropriate to adjourn the hearing by ten [10] days in order to give an opportunity to the Appellants to redress the anomaly. Accordingly, list the appeal on 27.12.2023 to report compliance.</p> <p style="text-align: right;">_____<br/><b>GN, J</b></p> <p style="text-align: right;">_____<br/><b>VN, J</b></p> <p>SM/</p> |  |
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