

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION NO: 21847 OF 2017

Between:

1. Smt. Sunitha Chincholikar d/o Nana Rao, Occ secondary Grade Teacher, V.V.Kanyasala, Gowliguda, Hyderabad.
2. Smt. Sulabha Painthaker Lathakar D/o Kesav Rao Lathakar, Occ secondary Grade Teacher. V.V.Kanyasala, Gowliguda, Hyderabad.
3. Smt. Suchitra Kunde D/o Sridhar Kunde, Occ Retired secondary Grade Teacher. V.V.Kanyasala, Gowliguda, Hyderabad.
4. Smt. Meena Kulkarni D/o Kishan Rao, Occ Retired secondary Grade Teacher, V.V.Kanyasala, Gowliguda, Hyderabad.
5. Sri. Ashok Kumar Kharat s/o Satwaji, Occ School Assistant V.V. Kanyasala, Gowliguda, Hyderabad.
6. Smt. Anuradha Yadhav D/o. Hanumanth Rao, Occ secondary Grade Teacher. V.V.Kanyasala, Gowliguda, Hyderabad.
7. Smt. Neeta Lokapally, Occ Record Asst. V.V. Kanyasala, Gowliguda, Hyderabad
8. G. Manga D/o H. Madhusudhan Rao, S.G. Teacher, V.V. Kanyashala High School, Gowliguda, Hyderabad.

...PETITIONERS

AND

1. The State of Telangana Rep by its Spl Chief Secretary to, Government School Education (GENL) Department, Secretariat Building, Telangana, Hyderabad.
2. The Director of School Education Telangana State, Hyderabad., -
3. The Regional Joint Director Of School Education , Hyderabad., -
4. The District Educational Officer Hyderabad District, Hyderabad , Telangana.
5. The Vivek vardhini Educational Society, Rep by its, Secretary Cum Correspondent, 5-1-524, Vaman Naik Marg Jambag Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, especially in the nature of Writ Of Mandamus directing the respondents to absorb the petitioners into vacant aided posts w.e.f the date on which the proposals for their absorption were sent by the Fifth respondent in the year 2003, while declaring the action of the respondent

in absorbing the petitioners into service wef 30.01.2012 as being arbitrary, illegal, unconstitutional null and void.

Counsel for the Petitioners: SRI G.NAGESH

Counsel for the Respondent Nos.1 TO 4: GP FOR SERVICES I

Counsel for the Respondent No.5: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA.

WRIT PETITION No.21847of 2017

ORDER:

This writ petition is filed seeking following relief:

“Directing the respondents to absorb the petitioners into vacant aided posts w.e.f the date on which the proposals for their absorption were sent by the respondent No.5 in the year 2003, while declaring the action of the respondent in absorbing the petitioners into service w.e.f 30.01.2012 as being illegal, arbitrary.”

2. Heard Sri G. Nagesh, learned counsel for the petitioners and learned Government Pleader for Services-I for respondents.
3. The brief facts of the case are that petitioner Nos.1 and 2 are working as Secondary Grade Teacher, petitioner Nos.3 and 4 are retired as Secondary Grade Teacher, petitioner No.5 is working as School Assistant, petitioner No.6 is working as Physical Education Teacher and petitioner No.7 is working as Record Assistant and petitioner No.8 is working as Secondary Grade Teacher at V.V. Kanyashala under the respondent No.5/Management. Petitioner No.1 was appointed on 14.07.1999, petitioner No.2 was appointed on 01.02.1993, petitioner No.5 was appointed on 05.07.2000,

petitioner No.6 was appointed on 15.07.2002, petitioner No.7 was appointed on 18.07.1984 and petitioner No.8 was appointed on 03.08.1998, all these petitioners are qualified and were appointed after being regularly selected by properly constituted selection committee as provided under The Education Act. The respondent No.5 school is declared as a Marathi Linguistic Minority Education Society *vide* Order in G.O.Rt.No.569 dated 24.09.2001; the Government issued G.O.Ms.No.75 dated 23.09.2002 granting permission to fill up vacant grant in aid post by considering absorption in respective post, duly following seniority, qualification etc., The respondent No.5 in the year 2003 sent proposals in prescribed form for absorption of petitioners for grant in aid post; the petitioners were called for hearing in connection to absorption of unaided teacher into aided post and were waiting for the orders. It is stated that respondent No.5 informed the petitioners that respondent No.4 has communicated that the proposals for approval of permission of absorption of the petitioners into aided post were returned by respondent No.3 on the alleged ground of a ban on filling up existing vacancies as per the Government Memo No.12080/COSE/A2/2004-4 dated 20.10.2004. It is further stated that proposals for absorption of the petitioners were sent

even before the ban come into effect, the petitioners Nos.1 to 7 herein being aggrieved by the order passed on their proposals, questioned the orders on the ground that Government Memo dated 20.10.2004 is inapplicable to the petitioners and also sought for a direction against the respondents to absorb the petitioners in grant in aid post as per the proposals sent by respondent No.5 in Writ Petition No.3820 of 2006 and Writ Petition No.7769 of 2006 and both the writ petitions were allowed by this Court on 17.09.2008. It is stated that petitioner No.8 had also filed a separate Writ Petition No.3812 of 2006 seeking absorption into an aided vacancy since no order was passed on her proposal, on the ground that Government Memo dated 20.10.2004 is inapplicable to the petitioner and the same was allowed by this Court on 30.01.2012. It is further stated that respondent No.1 *vide* Memo No.16047/SE.PS.I/A1/2009 dated 02.03.2009 rejected the proposals sent by respondent No.2 on the grounds that "Government has taken a policy decision not to fill up any aided post after issue of ban orders on 20.10.2004 as the ban is in operation no orders can be issued and in the instant case the management has absorbed unaided staff in aided vacancy without approval of the competent authority; the prior approval of the

competent authority is required for absorbing the unaided staff to grant in aid is required. It is further stated that order dated 02.03.2009 was challenged by the petitioner Nos.1 to 7 in Writ Petition No.14013 of 2010 seeking for declaring the proceedings of the respondent as being arbitrary, illegal and prays to direct the respondents to absorb the petitioners herein to grant in aid post which are vacant in respondent No.5 school and accord all the consequential and other benefits as may be found expedient in the circumstances of the case. In Writ Petition No.14013 of 2010 was heard along with an earlier Writ Petition No.3812 of 2016 filed by petitioner No.8 on 30.01.2012 was allowed as prayed for and the respondents were directed to consider the proposals sent by respondent No.5 and pass orders as expeditiously as possible within a period of six weeks from the date of the order but the respondents have not implemented the order passed by this Court and stated that respondent No.5 sent representations to respondent Nos.1 to 4 on 13.06.2012, 13.02.2012 and 27.02.2012 to consider their proposals and approve by absorbing them to grant in aid post by enclosing a copy of the order but the respondents have not passed any orders.

4. It is further stated that the petitioners herein had filed

Contempt Case Nos.850 and 851 of 2012, the matter was adjourned from time to time at the request of respondent and this Court passed a detailed order on 15.03.2013 by granting six weeks time for the implementation of the orders and the respondents herein during the pendency of the said contempt case filed Writ Appeal Nos.1524 and 1525 of 2013 which was dismissed by Division Bench of this Court and passed a detailed order while recording that the petitioners were appointed into service from the year 1984 onwards. The respondents had filed S.L.P.Nos.37980 and 38049 of 2013 and the Hon'ble Supreme Court initially passed interim orders granting interim stay and the same was brought to the notice of this Court in the contempt case by the respondents and this Court closed the contempt cases leaving it open to the petitioners herein to initiate fresh contempt proceedings and thereafter the Hon'ble Supreme Court dismissed the S.L.P.Nos.37980 and 38049 of 2013 on 11.08.2014. Thereafter, the petitioners herein filed Contempt Case Nos.1900 and 1930 of 2014 and the same are pending for adjudication before this Court. It is further stated that the respondents in view to escape liability in the contempt cases passed order absorbing the petitioners into grant in aid posts w.e.f. 30.01.2012 as per the orders passed by

6

this Court in W.P.Nos.3812 of 2006 and 14013 of 2010 and submitted that orders passed and impugned in the present writ petition are arbitrary. It is further stated that respondents ought to have absorbed the petitioners into service from the date on which their proposals were sent by respondent No.5 but respondent without any application of mind has chosen to absorb the petitioner from the date of the order passed by this Court i.e., on 30.01.2012 and also stated that respondents have chosen to utterly disregard the observations of this Court in the earlier writ petitions and thus petitioners filed several representations to bring to the notice of the respondents the illegality committed by them against the petitioners and requested them to absorb the petitioners into service from the date of their proposals being sent rather than the date of the order passed by this Court.

5. In a counter filed by respondent No.4 it is stated that as per the order passed by this Court dated in W.P.No.14013 of 2010, the services of the petitioners were already absorbed *vide* G.O.Ms.No.8 of School Education (GENL) Department dated 18.02.2016, wherein specifically mentioning that their absorption/petitioners w.e.f. the date of issued of the G.O.Ms.No.8 of School Education (GENL) Department dated 18.02.2016 and the

same was accepted by the petitioners. It is further stated petitioners have not challenged the condition mentioned in their orders of absorption issued *vide* G.O.Ms.No.8 of School Education (GENL) Department dated 18.02.2016 and prays to dismiss the writ petition.

6. A perusal of the counter filed by the respondent No.4 clearly indicates that petitioners were absorbed into service as per the orders passed by this Court dated 30.01.2012 in W.P.No.14013 of 2010 in terms of G.O.Ms.No.18.02.2016 and the same was not challenged by the petitioners. Therefore, this Court finds no merits or reasons to entertain the present writ petition and the same is liable to be dismissed.

7. In the result, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

//TRUE COPY//

SD/- P.PONNA KRISHNA
ASSISTANT REGISTRAR
SECTION OFFICER

- To
1. One CC to SRI G.NAGESH, Advocate [OPUC]
 2. Two CCs to GP FOR SERVICES-I, High Court for the State of Telangana, at Hyderabad. [OUT]
 3. Two CD Copies
- PSK.

[Signature]

HIGH COURT

DATED:04/07/2025

ORDER

WP.No.21847 of 2017



**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

⑥MT
24/10