

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.10664 of 2006

Dated: June 30, 2006

Between:

Saraswathi Vidya Peetam, rep. by its Secretary,
N. Narsi Reddy, Vissannapeta, Krishna District,
and others.

... Petitioners

And

Board of Intermediate Education, Nampally,
rep. by its Secretary, and others.

... Respondents

Order:

This writ petition has been filed seeking a Writ of Mandamus to declare the action of the first respondent in issuing proceedings in Rc.No.17/E10-2/Kr.2005-06 dated 03-05-2006, cancelling the formal acceptance issued in favour of the petitioners for establishment of a junior college for the academic year 2006-07 as arbitrary and illegal and a consequential direction to the first respondent is sought to grant recognition to the second petitioner institution for the academic year

2006-07.

2. Heard the learned counsel for the petitioners and the learned Government Pleader appearing on behalf of the respondents.

3. The first petitioner, a society registered under the provisions of the Societies Registration Act, 1860, proposed to establish a junior college in Tiruvuru Mandal, Krishna District, for imparting training in Intermediate course. Accordingly, it approached the Board of Intermediate Education, first respondent herein, and submitted an application for grant of permission for starting an institution from the academic year 2006-07. Initially, the same was rejected by the first respondent on 17-07-2005 stating that there are no surplus students who passed out S.S.C. in Tiruvuru Mandal. Thereafter, the petitioners represented to the Government and the first respondent enclosing a certificate issued by the Deputy Educational Officer, Nuzvid, showing the number of students who passed out S.S.C. as '1265'. Thereupon, the Regional Inspection Officer, Vijayawada, enquired into the matter and submitted a report, basing on which, the first respondent issued a formal acceptance of proposals vide proceedings dated 04-04-2006, pursuant to which the petitioners claim to have made suitable provisions of infrastructure for commencing training. While so, it is stated that to the surprise of the petitioners, the first respondent issued the proceedings impugned, referring to the report of the Regional Inspection Officer, dated 14-04-2006, stating that the third respondent clarified that the correct number of the students who passed out S.S.C. in Tiruvuru Mandal was only 775, instead of 1265 and therefore cancelled the formal acceptance issued to the petitioners on 04-04-2006. Hence, the petitioners have come up with the present writ petition.

4. It is the case of the petitioners that the number of students who passed out S.S.C. in Tirivuru Mandal, is about 1265. The fourth respondent who was impleaded as a party respondent opposed the claim of the petitioners on the ground that the number of students who passed out S.S.C. in Tiruvuru Mandal, is not more than 775.

5. Counter affidavit has been filed by the respondents stating that as per G.O.Ms.No.114 HE (CE-III-2) Department dated 09-08-2000; there should be 220 surplus students who have passed out S.S.C. in the mandal where the college is proposed to be established. It is further stated that the formal acceptance letter issued to the petitioners was cancelled by the impugned proceedings, as there are no surplus number of students who passed out S.S.C. in the mandal.

6. There is a dispute with regard to the number of students who passed out S.S.C in Tiruvuru Mandal. Initially, the proposal of the petitioners was accepted and formal acceptance was issued on 04-04-2006, asking to comply certain conditions, including deposit of corpus fund, etc. The respondents, before proposing to cancel the formal acceptance given to the petitioners, ought to have issued prior notice to them. From a reading of the impugned order and also the counter affidavit, it is not in dispute that no prior notice has been issued before passing the impugned order. Though it is the case of the petitioners that there are sufficient number of students who passed out S.S.C., this Court cannot go into that aspect of the matter in a petition filed under Article 226 of the Constitution of India. The same is in the domain of the respondents. But, only on the short ground that no notice has been issued to the petitioners before cancelling the formal acceptance given to it to start a junior college, I set aside the proceedings dated 03-05-2006 and permit the petitioners to make a

representation to the respondents in this regard within two (2) weeks from today. On such representation being made, the first respondent is directed to consider the same and pass appropriate orders and communicate the same to the petitioners.

7. The writ petition is disposed of with the above observations. No order as to costs.

JUSTICE R. SUBHASH REDDY.

June 30, 2006

MRR