

HONOURABLE SRI JUSTICE K.G.SHANKAR

WRIT PETITION Nos.22231 & 22234 of 2001

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Date: 31.10.2013

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WP No.22231 of 2001:

Between:

Smt. Shakeela Begum

... Petitioner

And:

State of Andhra Pradesh, rep. by its
Principal Secretary, Department of Education
(School Education), Hyderabad & others

... Respondents

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COMMON ORDER:

These two writ petitions are disposed of through this common order, as the questions involved in both the cases are one and the same. WP No.22231 of 2001 was laid by the Junior Assistant of the 6th respondent-School. The petitioner in WP No.22234 of 2001 is the Record Assistant in the same school. The petitioner in WP No.22231 of 2001 shall be referred to as first petitioner and the petitioner in WP No.22234 of 2001 shall be referred to as 2nd petitioner hereinafter for convenience.

2. Both the petitioners joined in the 6th respondent-

School on 14.06.1992. As already pointed out, the first petitioner is a Junior Assistant, while the 2nd petitioner is a Record Assistant. The case of the petitioners is that the petitioners have been working in aided vacancies. On 23.08.2000, the staff of the school formed an association and registered the same under the Societies Registration Act. The first petitioner became the Joint Secretary and the 2nd petitioner became the General Secretary of the Association. More than a year after formation of the Association, on 30.08.2001, a charter of demands was submitted by the Association to grant pay parity with the employees of the Government schools. Subsequently, the Correspondent of the school placed the petitioners under suspension through the orders dated 14.09.2001. It is the contention of the learned counsel for the petitioners that the suspension of the petitioners was a vindictive action on the part of the Correspondent and that no reasons were assigned for issuing orders of suspension. Curiously, the suspension was a single sentence order that the respective petitioners were placed under suspension with immediate effect in the interest of the school administration. No further reasons were assigned for the placement of the petitioners under suspension.

3. Learned counsel for the petitioners contended that the District Educational Officer (DEO, for short) alone is authorised to place an aided employee under

suspension and that the petitioners submitted representations to the DEO seeking reinstatement. Copies of the representations submitted by the petitioners to the DEO were sent to the District Collector as well as to the Regional Joint Director. None of them had responded to the representations of the petitioners. The petitioners further claimed that on 01.10.2001, the petitioners made a further representation to the District Collector, which again did not yield any results. The petitioners seek for reinstatement into service holding that the suspension of the petitioners is illegal.

4. The respondents 1 to 4 did not file counter. However, the respondents 5 and 6 filed counter. In the counter, the respondents 5 and 6 alleged that the petitioners committed misconduct and that in the interest of the administration of the school, the petitioners had to be placed under suspension. It is also contended that the school is a private school and the writ petition does not lie.

5. Admittedly, the 6th respondent is an aided institute. All aided institutes are governed by the provisions of the Andhra Pradesh Education Act and are amenable to the writ jurisdiction of the High Court. The contention of the respondents 5 and 6 that their action cannot be questioned in a writ jurisdiction consequently is not sustainable.

6. It is the contention of the respondents 5 and 6 that the petitioners committed misconduct in discharge of their duties. If so, domestic enquiry ought to be conducted against the petitioners. Even in the suspension orders, it should have been stated the circumstances in which it became necessary to place the petitioners under suspension. Apart from the fact that the suspension orders contain a one line order, no disciplinary action was initiated against the petitioners at any time after their suspension on 14.09.2001, *albeit* 12 years have elapsed therefrom. Even a charge sheet had not been issued let alone initiating domestic enquiry against the petitioners. The attitude of the respondents 5 and 6 placing the petitioners under suspension and not taking any further action is patently illegal and is liable to be set aside.

7. Where the petitioners were placed under suspension on 14.09.2001 and no further action had been taken by the respondents 5 and 6 thereafter, these writ petitions are allowed. The suspension of the petitioners 1 and 2 is set aside. The respondents 5 and 6 are directed to reinstate the petitioners within four weeks from the date of receipt of a copy of this order and pay back wages together with continuity of service and attendant benefits. Pending miscellaneous petitions, if any, in this writ petition shall stand closed. No order as to costs.

JUSTICE K.G.SHANKAR

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