

IN THE HIGH COURT OF KARNATAKA

DHARWAD BENCH

DATED THIS THE 31ST DAY OF JULY, 2015

BEFORE

THE HON'BLE MR. JUSTICE B. VEERAPPA

Writ Petition Nos.102502-504/2015 (S-RES)

BETWEEN

1. M.N. NADUGERI
AGE:52 YEARS,
OCC. WORKING AS ASSISTANT TEACHER IN
S.G.K. HIGH SCHOOL, KATAKOL
TQ. RAMADURGA, DIST. BELAGAVI
2. H.S. ANDI
AGE:51 YEARS,
OCC. WORKING AS P.E. TEACHER IN
S.G.K. HIGH SCHOOL, KATAKOL
TQ. RAMADURGA, DIST. BELAGAVI
3. B.R. DYAMANAGOUDAR
AGE:43 YEARS,
OCC. WORKING AS ASSISTNAT TEACHER IN
S.G.K. HIGH SCHOOL, KATAKOL
TQ. RAMADURGA, DIST. BELAGAVI

... PETITIONERS

(BY SRI P G CHIKKANARAGUND, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF LAW AND

PARLIMENTARY AFFIARS,
VIDHANA SOUDHA,
BANGALORU-560 001

2. THE PRINCIPAL SECRETARY
GOVERNMENT OF KARNATAKA
DEPARMTNET OF EDUCATION
(HIGHER SECONDARY)
M.S. BUILDING
BANGALORU-560 001
3. THE ADDL. COMMISSIONER FOR PUBLIC
INSTRUCTIONS
COLELGE ROAD, DHARWAD
4. THE DEPUTY DIRECTOR OF PUBLIC INSTRUCTIONS
BELGAUM DISTRICT (SOUTH)BELGAUM

... RESPONDENTS
(BY SRI RAVI V. HOSAMANI, AGA)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING DECLARE THE PROVISIONS OF SECTION 3(1) AND (2) OF THE KARNATAKA PRIVATE AIDED EDUCATIONAL INSTITUTIONS EMPLOYEES (REGULATION OF PAY, PENSION AND OTHER BENEFITS) ACT 2014 PASSED BY THE 1ST RESPONDENT AS UNCONSTITUTIONAL AND CONSEQUENTLY STRUCK DOWN THE SAID PROVISIONS AS ULTRA VIRUS OF THE CONSTITUTION OF INDIA.

THESE WRIT PETITIONS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners are teachers working in S.G.K. High School, Katakol, Ramadurga Taluk, Belgaum District and they were appointed on 23.05.1988 and 16.08.1988 and 04.03.2004 and the appointment of 1st and 2nd petitioners was approved by 20.03.1987 and the appointment of 3rd petitioner was approved by 18.06.2007.

2. The petitioners stated that there cannot be any discrimination between the employees of the State Government employees and private educational institutions in granting service benefits, and all of them have to be treated equally and the financial exchequer in doing so is not a ground in not granting such facilities after having lost all the cases before this Court and the Hon'ble Supreme Court of India, etc. The petitioners are before this Court seeking a writ of certiorari to declare the provisions of Section 3(1)(2) of

the Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other Benefits) Act, 2014 (7 of 2014) passed by the 1st respondent as unconstitutional and consequently struck down the said provisions as ultra virus of the Constitution of India.

3. Both the learned Counsel for the petitioners and learned AGA brought to the notice of this Court that the Karnataka Act No.7 of 2014 was the subject matter before this Court in W.P. No.21216 of 2014 and connected matters, and this Court by an order dated 10.07.2015 has allowed the writ petitions and struck down the Act as *ultra vires* of Constitution of India, as it is opposed to Article 14 of Constitution of India and also encroaches upon the judicial power of the Courts and directed the respondent-State shall continue to pay salary or pension as the case may be to the petitioners and similarly placed persons, as was being paid pursuance to its earlier orders or, in the other words, as

it was being paid prior to impugned enactment and the State Government shall comply with the directions already issued by this Court extending the monetary benefits and treating the petitioners working in Private Aided Educational Institutions on par with the employees working in Government Institutions. It is further directed that, in the event of respondent-State having recovered amount/s pursuant to the impugned enactment, same is hereby ordered to be refunded to the respective petitioner/s by the State expeditiously, at any rate within eight weeks from the date of receipt of a certified copy of the order.

4. In view of the dictum of this Court, stated *supra*, these writ petitions are also ***allowed*** in similar terms.

**Sd/-
JUDGE**

Sbs*