

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.26905 of 2017

ORDER:

The present writ petition assails the action of the Additional Joint Secretary, Office of the Director of Government Exams, Nampally, Hyderabad/the fifth respondent herein in issuing letter bearing Rc.No.12/D21-1/2017, dated 07.07.2017 as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and violative of the principles of natural justice and the petitioner herein is also seeking a consequential direction to the respondents 4 and 5 to issue the Memo of Marks of SSC students of the petitioner's school.

2. M/s.Annapurna Educational Society established the petitioner school and it has been functioning at the premises bearing H.No.3-14-36/44/A, Viveknagar, Hyderabad -13 from the year 2000 onwards till date and according to the petitioner there are about 400 students in the school and it is also implementing the Right to Education Act.

3. The fourth respondent/Director of Government Exams issued a notification dated 28.10.2016 fixing the schedule of payment of examination fee and submission of Nominal Rolls etc., and as per the said Schedule, the last date for remittance of examination fee was 15.11.2016 for the students to the Head master concerned and the Head master of the school had to submit the Nominal Rolls in the office of the District Educational Officer/the sixth respondent herein from 17.11.2016 to 19.11.2016 and the District Educational Officer/the Sixth respondent had to submit the Nominal Rolls in the office of the Director of Government Exams/the fourth respondent herein without late fee on 21.11.2016 and

22.11.2016 and the last dates with late fee of Rs.50/-, Rs.200/- and Rs.500/- were also mentioned in the said notification.

4. According to the petitioner, petitioner submitted the proposal for grant of extension of Temporary Registration (ETR) to the Classes I to X for the years 2016-2017 to 2025-2026 through proper channel as it got registration only up to the academic year 2015-2016. Thereupon, the sixth respondent/District Educational Officer addressed a letter on 27.09.2016 to the third respondent Regional Joint Director of School Education and as the extension of Temporay Registration was not accorded, petitioner herein made a representation on 25.02.2017 to the second respondent/Director of School Education with a request to direct the concerned to accept its SSC students Nominal Rolls (NRs) and to issue extension of Temporary Registration (ETR) to the petitioner school from 2016-2017 to 2025-2026 for the classes I to x (English Medium) by continuing school name as "Telangana Grammar High School, Viveknagar, Ramanthapur".

5. Pursuant to the said representation dated 25.02.2017, the second respondent Director of School Education vide proceedings dated 28.02.2017 requested the respondents 2, 3 and 6 and the Special Chief Secretary to Government, School Education, to accept the Nominal Rolls of the SSC students for March, 2017 in the name of TS Grammar High School, Ramanthapur, Medchal District and also asked the Regional Joint Director/the third respondent to submit proposals for ratification by the competent authority.

6. Accordingly, the sixth respondent/District Educational Officer addressed a letter dated 03.03.2017 to the third respondent/Regional Joint Director soliciting necessary orders in regard to change of School name and grant of provisional recognition to the Classes VI to X (EM) for 2016-2017

to 2025 to 2026 in respect of T.S Grammar High School, Viveknagar, Medchal District. Thereafter, the third respondent/the Regional Joint Director addressed a letter dated 07.03.2017 to the second respondent/The Director of School Education for necessary orders in the said record. Thereafter, the second respondent/the Director of School Education vide letter dated 18.03.2017 addressed to the first respondent/State Government made a request to ratify the action taken by the second respondent in according permission to the Director of Government Examinations, Telangana State to accept the Nominal Rolls of X students for the SSC Public Examinations March, 2017 in respect of the petitioner/TS Grammar School and to accord permission to the third respondent to issue orders for change of name of the school from A.P. Grammar High School to T.S Grammar High School. Thereafter, the first respondent State Government vide Memo dated 11.04.2017 passed the following order:

"(i) ratify the action of the Commissioner 84 Director. of School Education, Telangana, Hyderabad, in having accorded permission. to the Director of Government Examination, Telangana, Hyderabad, to accept Nominal rolls of Xth Class students for the SSC Public Examinations, March, 2017 in respect of T.S.Grammar High School, Ramanthapur, Uppal Mandal, Medchal District;

(ii) accord permission to the RJD of School Education, Hyderabad, to issue orders for change of name of AP Grammar High School, Ramanthapur, UPPal Mandal, Medchal District., as TS Grammar High School, Ramanthapur, Uppal Mandal, Medchal District."

7. In the said Memo the State Government directed the second respondent/The Commissioner and Director of School Education to take further necessary action in the matter.

8. The fifth respondent/Additional Joint Secretary to the Director of Government Exams issued a letter dated 07.04.2017 asking the petitioner to pay late fee of rs.1,000/- to each candidate for late submission of

Nominal Rolls while informing that the result of the candidate will be kept withheld in the event of failure to adhere to the same. According to the petitioner, it was received by it on 17.04.2017. In response to the same, on 24.04.2017 the petitioner submitted a representation/explanation requesting to withdraw the instructions with regard to payment of penal fee of Rs.1,000/- for each candidate while stating that it is no way responsible for the late submission of the Nominal Rolls and the same occasioned due to lapse committed by the office of the fifth respondent in the year 2014 and eventually requested to declare the result of the students along others. The fifth respondent vide Rc.No.12/D21-1/2017 dated 07.07.2017 directed the petitioner to pay the amount as directed earlier in the letter dated 07.04.2017.

9. s writ petition challenges the validity and the legal sustainability of the said proceedings dated 07.07.2017 wherein the fifth respondent instructed the petitioner to submit a challan for Tatkai late fee for taking further action.

10. Heard Sri Chandraiah Sunkara, learned counsel for the petitioner and the learned Government Pleader for the respondents apart from perusing the material available before the Court.

11. It is contended by the learned counsel for the petitioner that the impugned action is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India. In elaboration, it is submitted by the learned counsel that without considering the petitioner's representation dated 24.04.2017 the fifth respondent herein issued the impugned letter dated 07.07.2017; that without there being any fault on the part of the petitioner herein, petitioner is sought to be penalized; that in view of the ratification accorded by the State Government, there is no justification on

the part of the fifth respondent herein to insist on payment of Rs.1,000/- for each candidate and that the said ratification dates back to the payment of challan on 28.10.2016; that the fifth respondent cannot take advantage of his own lapse.

12. On the contrary, it is submitted by the learned Government while seeking to justify the impugned action submitted that there is no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that the petitioner herein did not have the orders of extension of temporary registration to run X Class Section for the Academic Year 2016-2017 at the time of remittance of examination fee by the correspondent of the school.

13. There is absolutely no dispute with regard to the reality that after receipt of the letter dated 07.04.2017 issued by the fifth respondent, petitioner herein submitted an elaborate explanation/reply dated 24.04.2017, stating *inter alia* that the petitioner school uploaded the particulars of the SSC students of the school in online and paid the examination fee through challan vide letter dated 19.11.2016 i.e., before the last date prescribed for the payment. Petitioner herein also stated in the said explanation that the grant of extension of temporary registration was delayed due to the lapse committed by the fifth respondent office in the year 2014 by changing the name of the School as TS Grammar School, Ramanthapur instead of A.P. Grammar High School without any request for change of the name and or any fault on the petitioner's side and once the action of the Commissionr and Director of School Education in directing the fifth respondent to accept Nominal Rolls of 10 th Class students stood

ratified by the Government, it would date back to the payment of challan, as such, the payment of late fee of Rs.1,000/- for each candidate would not arise at all. In the said explanation, the petitioner herein also brought to the notice of the fifth respondent about various aspects occurred due to the advent of A.P. Reorganization Act, 2014.

14. It is also not in dispute that the State Government vide Memo dated 11.04.2017 also ratified the action of the Commissioner and Director of School Education in having accorded permission to the Director to accept Nominal Rolls of 10th Class students for the SSC Public Examinations March, 2017 and also accorded permission to the Regional Joint Director of School Education to issue orders for changed of name of A.P Grammar High School as T.S. Grammar High School, Ramanthapur.

15. It is not in dispute that the State Government issue the said Memo dated 11.04.2017 on the basis of the request made by the Director of School Education to ratify the action taken by the Director in according permission to the Director of Government Examinations to accept the Nominal Rolls of the 10th Class students for the SSC examinations of March, 2017. This Court, finds sufficient force in the submission of the learned counsel for the petitioner that since the ratification was accorded by the State Government and the Director of School Education unconditionally, there is no justification on the part of the fifth respondent herein to insist on payment of penal fee and the consequential action of withholding the certificates of the SSC students. It is also significant to note that though the petitioner herein narrated various aspects in its reply/explanation dated 24.04.2017a submitted in response to the letter dated 07.04.2017 of the fifth respondent, the fifth respondent except showing the said reply/explanation as one of the references to the impugned letter, did not

make any endeavour to consider the sustainability of the contents of the explanation. The mode and manner adopted by the fifth respondent in doing so cannot be approved by this Court. Therefore, this Court does not find any justification on the part of the fifth respondent in issuing the impugned letter and the same is arbitrary and unsustainable and cannot stand for judicial scrutiny.

16. For the aforesaid reasons, writ petition is allowed, setting aside the letter Rc.No.12/D21-1/2017 dated 07.07.2017 of the fifth respondent herein and consequently the respondents are directed to issue the Memorandum of Marks of the SSC students of the petitioner's school, within a period of one month from the date of receipt of a copy of this order. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs

Date:31.12.2018
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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.26905 of 2017

Dated:31.12.2018

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