

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2022

BEFORE

THE HON' BLE MR.JUSTICE R DEVDAS

WRIT PETITION NO.54889 OF 2017 (S-RES)

C/W

WRIT PETITION NO.51973 OF 2017 (S-RES)

IN W.P. NO.54889 OF 2017

BETWEEN

SRI CHIKKANARAYANAPPA
S/O SRI GANGAPPA A K
R/A NO.103
K H B QUARTERS, B BLOCK
OPP:VIJAYANAGAR CLUB
VIJAYANAGAR
BANGALORE-560040

... PETITIONER

(BY SRI.M.P. SRIKANTH, ADVOCATE)

AND

1. THE GENERAL SECRETARY
KARNATAKA PEOPLE'S EDUCATION
SOCIETY, DARGA ROAD
GULBARGA-585601
2. THE DIRECTOR
PRE-UNIVERSITY EDUCATION DEPARTMENT
PALACE ROAD
BANGALORE-560001
4. THE DEPUTY DIRECTOR
PRE-UNIVERSITY EDUCATION DEPARTMENT

BANGALORE NORTH DISTRICT
18TH CROSS, SAMPIGE ROAD
MALLESWARAM
BANGALORE-560003

5. THE PRINCIPAL SECRETARY TO
THE GOVERNMENT
DEPARTMENT OF LAW AND JUSTICE
VIDHANA SOUDHA, VIDHANA VEEDHI
BANGALORE-560001 ...RESPONDENTS

(BY SMT. M.C. NAGASHREE, AGA FOR R2 TO R4
SRI. L.M. CHIDANANDAYYA, ADVOCATE FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO
SET ASIDE THE ORDER DATED 3.10.2017 OF THE HON'BLE
TRIBUNAL PASSED ON APPEAL NO. 30/2004 TO THE
EXTENT OF DENYING THE SERVICE AND FINANCIAL
BENEFITS TO THE PETITIONER VIDE ANNEX-G AND ETC.,

IN W.P. NO.51973 OF 2017

BETWEEN

KARNATAKA PEOPLE'S EDUCATION SOCIETY
A SOCIETY REGISTERED UNDER
THE SOCIETIES REGISTRATION ACT
REPRESENTED BY ITS GENERAL SECRETARY
SRI. MARUTHI RAO D MALEY
HAVING ITS OFFICE AT
NALANDA NATIONAL PU COLLEGE
J.C.NAGAR, MAHALAKSHMIPURAM
KURUBARAHALLI,
BANGALORE-560086

.....PETITIONER

(SRI. L.M. CHIDANANDAYYA, ADVOCATE)

AND

1. SRI. CHIKKANARAYANAPPA
S/O SRI. GANGAPPA A K
RESIDING AT NO.249, KURUBARAHALLI,
DODDAMMA TEMPLE ROAD,
MAHALAKSHMIPURAM POST,
BANGALORE-560086

PRESENTLY RESIDING AT
CARE OF BASAPPA B,
NO.18/6, 19TH MAIN ROAD,
MARENAHALLI,
BANGALORE-560040
2. THE DIRECTOR
PRE-UNIVERSITY EDUCATION DEPARTMENT,
SAMPIGE ROAD, 18TH CROSS,
MALLESWARAM, OPPOSITE CET,
BANGALORE-560003
3. THE DEPUTY DIRECTOR
PRE-UNIVERSITY EDUCATION DEPARTMENT,
BANGALORE NORTH DISTRICT,
MALLESWARAM, 18TH CROSS,
BANGALORE-560 003RESPONDENTS

(BY SRI. M.P. SRIKANTH, ADVOCATE FOR C/R1
SMT. M.C. NAGASHREE, AGA FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS FROM EDUCATIONAL APPELLATE TRIBUNAL AND III ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE WHICH ULTIMATELY RESULTS IN PASSING THE ORDER DATED 03.10.2017 VIDE ANNEX-A IN M.A.(EAT) NO. 30/2004 AND ETC.,

THESE WRIT PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R.DEVDAS J., (ORAL):

These two writ petitions arise out of an order passed by the Educational Appellate Tribunal in M.A.(EAT)No.30/2004 dated 03.10.2017. Therefore, both these matters are clubbed together, heard and disposed of by this common order.

2. For the sake of convenience, the Institution where the first respondent was working as the Principal, shall be referred to as the 'petitioner-Institution', while the aggrieved Principal of the Institution shall be referred to as the 'first respondent'.

3. The first respondent was appointed as the Lecturer in the petitioner-Institution in the year 1987. He was promoted as the Principal of the Institution in the year 1994. The first respondent was kept under

suspension by order dated 25.03.2000 and charge memo was issued on 08.01.2001 containing 11 charges. There were charges of financial irregularity including collection of amount towards development charges belonging to the Institution from the students, while receipts for a lesser sum was issued to the students; admission was given to certain students only to get the benefit of the scholarships for students belonging to the Scheduled Caste community; charges of forgery of signature of the students; admission given to 16 students without obtaining the Transfer Certificates; receipt of amounts towards medical check up, without conducting the medical check ups for the students; obtaining loan from a Bank by showing a pay slip which actually belonged to some other College staff; collecting development funds from the staff and not crediting the same into the account of the Institution; and information in this regard was available in the audited amount of the Auditor.

4. Two retired officials were appointed as Enquiry Officers and opportunity of hearing was granted to the first respondent. However, it is contended on behalf of the first respondent that the charges were vague and the charges were not substantiated by leading cogent evidence. *Nevertheless*, the Enquiry Officers submitted a report holding that except charge No.5, all other charges were proved. Consequently, the Board of the Management proceeded to pass an order of punishment by compulsorily retiring the first respondent.

5. Aggrieved, the first respondent approached the Educational Appellate Tribunal by filing an appeal and the Appellate Tribunal passed the impugned order dated 03.10.2017 holding that the charges were vague and they were not in terms of the requirement of Rule 17(4) of the Karnataka Private Educational Institutions (Discipline and Control) Rules, 1978. The

Appellate Tribunal also found fault with the fact that the subsistence allowance was not paid to the first respondent, as required under law. Consequently, the Tribunal proceeded to set aside the order of compulsory retirement and directed reinstatement of the first respondent with immediate effect without service and financial benefits. The first respondent is aggrieved of the portion of order which directed reinstatement without the service and financial benefits, while the petitioner-institution is aggrieved of the setting aside of the order of compulsory retirement.

6. During the course of the proceedings, it is brought to the notice of this Court that by way of an interim direction given by this Court, the first respondent was reinstated into service.

7. The first respondent was directed to be reinstated into the service, however, it is contended on behalf of the petitioner-Institution that since

another Lecturer was promoted and appointed as Principal of the Institution, the first respondent was reinstated as Lecturer. Thereafter, in view of another direction issued by this Court, the petitioner was reinstated as Principal of the Institution. The first respondent attained the age of superannuation during April 2021. It is also brought to the notice of this Court that the first respondent has suffered a paralytic stroke and retiral benefits have not been settled in view of the pendency of these proceedings.

8. Having regard to the subsequent developments and the fact that the first respondent has attained the age of superannuation and also suffered a paralytic stroke, this Court made some suggestions to the learned Counsels to resolve the dispute amicably. The learned Counsels have accepted the suggestions made by this Court.

9. Consequently, this Court proceeds to pass the following:

ORDER

- i) Both the writ petitions are ***allowed in part.***
- ii) The first respondent shall not be entitled for any backwages.
- iii) However, the period of suspension shall be counted in favour of the first respondent for the sake of service and pensionary benefits.
- iv) Similarly, the period between 10.07.2002 and 03.10.2017, shall be counted in favour of the first respondent only for the sake of continuity of service and fixation of pension.
- v) It is made clear that the first respondent shall not be entitled for any salary or backwages during the entire period.
- vi) The subsequent period after reinstatement of the first respondent, even though as a Lecturer and thereafter as a Principal, the entire period shall be counted as the first respondent working as the Principal of the Institution, for the purpose of service and pensionary benefits.

Ordered accordingly.

**Sd/-
JUDGE**

JT/-