

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 26501 OF 2023

Between:

Suresh, S/o Adelya, Aged about 48 years, School Assistant, Z.P.S.S.
Muudhole, Nirmal district. (under orders of promotion as Gr.II G.H.M.)

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, School Education Department, T.S.Secretariat, Hyderabad.
2. The Director of School Education, Government of Telangana, at Hyderabad.
3. The Regional Joint Director of School Education, Warangal.
4. The District Educational Officer, Nirmal District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction more in the nature of Writ of Mandamus to declare the impugned Proc.Rc.No.1217/A1/2023 dt.30/08/2023 issued by the 3rd respondent in contravention of Rules of Policy of Sub-Rule 12(a) issued in G.O.Ms.No.2 SW dt.09/01/2004 R/w instructions issued in Rc.No.173/UC-2/2000 dt.19/02/2001 of the 2nd respondent and set aside the same as illegal, unwarranted, unjust besides being violation of Articles 14 and 16 of the Constitution of India and consequently declare that the promotion order dt.29/01/2009 of the petitioner is entitled to be restored with all consequential benefits.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned Proc.Rc.No.1217/A1/2023 dt.30/08/2023 issued by the 3rd respondent pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI A.RADHA KRISHNA

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following: ORDER

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.26501 of 2023

ORDER:

Heard Sri A. Radhakrishna, learned counsel appearing on behalf of the petitioner and learned Assistant Government Pleader for Services-I appearing on behalf of respondents.

2. The petitioner filed the writ petition seeking the following relief:

"... to issue a writ or order or direction more in the nature of Writ of *Mandamus* to declare the impugned Proc. Rc. No.1217/A1/2023 dt 30/08/2023 issued by the 3rd respondent in contravention of Rules of Policy of Sub Rule 12(a) issued in G.O. Ms. No.2 SW dt 09/01/2004 R/w instructions issued in Rc. No.173/UC-2/2000 dt 19/02/2001 of the 2nd respondent and set aside the same as illegal, unwarranted, unjust besides being violation of Articles 14 and 16 of the Constitution of India and consequently declare that the promotion order dt 29/01/2009 of the petitioner is entitled to be restored with all consequential benefits and pass..."

3. The case of the petitioner, in brief, is that the petitioner was appointed as Hindi Pandit Grade-I on 18.10.2002. The petitioner belongs to Schedule Caste Community. The petitioner

had been promoted to the post of Gr.II HM in Marathi Medium School vide Proc. dt 29.01.2009 against Roster Point No.2 on conversion as no female SC candidate was available and joined as HM on 30.01.2009. The petitioner's promotion had been cancelled vide procs. dated 05.10.2009 along with others after nine months of the promotion to the post of Gr.I HM in Marathi Medium School. The petitioner filed O.A. No. 10938 of 2009 in A.P.A.T and the tribunal was pleased to set aside the order dated 05.10.2009. The State Government preferred W.P. No. 8054/2010 and obtained interim suspension and later it was dismissed on 10.08.2022. Thereafter the petitioner filed W.P. No. 25000 of 2023 for implementation of the orders passed in O.A. No. 10938 of 2009 and it was disposed of directing the respondents to take necessary action for implementing the orders of the APAT vide Judgment dated 08.09.2023. The 3rd respondent issued the impugned show cause notice dated 30.08.2023 to the petitioner. Aggrieved by the same, the petitioner approached the Court by filing the present writ petition.

4. PERUSED THE RECORD.

(A) The letter addressed to the Secretary to Government Education (S.E) Department, Government of Telangana, Hyderabad, by Director, School Education, Telangana State, Hyderabad vide Lr.Rc.No.1312/SER III-2/2023, dated 10.11.2023 is extracted hereunder:

Madam,

Sub: -School Education-Court Case-W.P.No.25000 of 2023 file by Sri Suresh, School Assistant (Hindi), ZPSS, Mudhole, Nirmal District-request for the promotion to the post to GHM Gr.II in the light of orders passed in W.P.No.8054/2010-Reg.

Ref:- LR.Rc.No.1217/A1/2023 date: 20.09.2023, of Regional Joint Director of School Education, Warangal.

-oOo-

I wish to submit that in the reference cited, the Regional Joint Director of School Education, Warangal submitted that, Sri Suresh, School Assistant (Hindi), ZPSS Mudhole, Nirmal District has submitted a representation on 09.06.2023 requesting to implement the orders of Hon'ble High Court dated 10.08.2022 in W.P.No.8054/2010.

In this regard, I submit that, Sri Suresh, School Assistant (Hindi) was promoted as GHM Gr.II vide Regional Joint Director of School Education, Warangal proc.Rc.No.309/A1/ZP/ADILABAD DISTRICT/2009 dt.:29.01.2009, and he joined duty at ZPSS Marathi Medium, Mandal Tanoor. In transfer counseling held in the month of July 2009, he was transferred to ZPSS U/M Basar vide RJDSE, Warangal vide Proc. Rc.No.309/A1/ZP/ADB/09, dt: 17.07.2009.

I submit that the Regional Joint Director of School Education, Warangal has reverted the individual vide proc. Rc.No.308/A1/ZP/ADB/09, dt:03.10.2009, and the District Educational Officer, Adilabad has posted him as School Assistant (Hindi) at ZPSS

Mudhole vide Lr.No.B1/13025/REV/2009, dated: 05.10.2009 without giving him any opportunity.

In this Regard, the individual has approached APAT and filed OA No.10938 of 2009 with a prayer to direct the respondents to continue the applicant as GHM Gr.II at ZPSS Basar, Mandal Muchole.

I Submit that the Hon'ble Tribunal passed interim orders in OA No.10938 of 2009 dated.09.10.2009 as follows:

"In the mean time there shall be a direction to the respondents to continue the applicant HM-II in their respective places".

In this regard, I submit that, the Vacate petition was filed in APAT with VMA No.2280 of 2009 and the Hon'ble APAT, Hyderabad. The Hon'ble APAT has passed final orders in OA No.10938 of 2009 with V.M.A No.2280 of 2009 & C.A No.1102 of 2009 on 17.02.2010 as follows:

"In view of the above facts and circumstances of the case, the impugned orders dated:03.10.2009 issued by the Regional Joint Director of School Education cancelling the promotion orders issued to the applicants and the subsequent orders issued by the District Educational Officer posting the applicant as School Assistants are set aside, by leaving it open to the Regional Joint Director of School Education, Warangal to pass appropriate orders after putting the applicant on notice and by examining the representations to be submitted by the applicants in detail. Till the disposal of the representations filed by the applicants by passing speaking orders statu-quo of the applicants as on the date of issuance of the impugned orders by the Regional Joint Director of School Education, Warangal i.e., 03.10.2009 shall be maintained .

I submit that, the department has filed W.P.No.8054 of 2010 in Hon'ble High Court with a prayer to suspend the judgment of the Hon'ble APAT dated 17.02.2010 in O.A.No. 10938 of 2009. The Hon'ble High Court has granted interim stay in W.P.No.8054 of 2010 on the orders of Hon'ble APAT.

Further I Submit that, the individual was informed that, the Hon'ble High Court, Hyderabad has disposed WP No. 8054 of 2010 on dated 10.08.2022 as follows:

"Learned counsel appearing for the 1st respondent has contended that the Tribunal has merely set aside the cancellation order of promotion on the ground that no notice was given to the I respondent and the Tribunal also gave liberty to the petitioners to put the 1st respondent on notice and by examining the representations, pass appropriate orders. Therefore, there are no merits in the writ petition and the same is liable to be dismissed. Having considered the rival submission made by the learned counsel on either side. This court is of the view that the Tribunal has merely directed the petitioners to set aside the impugned cancellation order of promotion of the 1st respondent on the ground that no notice was given to the 1st respondent. The Tribunal was justified in setting aside the cancellation order of promotion as the impugned order was passed in violation of the principles of natural justice. Hence, this court is not inclined to interfere with the order passed by the Tribunal. Accordingly, the writ petition is dismissed".

In this regard, I submit that, as per the guidelines issued by the Commissioner & Director of School Education, AP, Hyderabad vide Proc. Rc.No. 173/UC-2/2000 date: 19.02.2001 a tentative seniority list of School Assistants under ZP Management were prepared and the promotion committee has considered to effect medium wise promotion for 276 posts in ZP Management, 261 (T/M), 13 (U/M) and 2 (M/M) in erstwhile Adilabad district by following separate rosters for promotions. The individual is shown at Sl.No.553 in the seniority list. There after he was promoted as GHM Gr.II in (Marathi Medium) vide Regional Joint Director of School Education, Warangal vide proc. Rc.No.309/A1/ZP/ADB/2009 dt:.29.01.2009.

Further I submit that, as the promotion to the post of Head Master granted in the respective medium of instruction, aggrieved there by some senior School Assistants filed appeals dt:30.01.2009 contending that they were wrongly ignored while promoting their juniors. On the ground that no orders are passed on their appeals, they have invoked the jurisdiction of the Hon'ble Tribunal by filing OA No.4421/2009,4420/2009,4422/2009 & 4419/2009. The Hon'ble Tribunal passed interim orders on 18.03.2009 directing the respondents to pass appropriate orders on the representation made by the applicant on 03.02.2009 as per rules with in a period of four weeks.

Further I submit that, the detailed report was submitted to the C&DSE.AP., Hyderabad seeking clarification vide LR.No.B1/ 13025/

REV/2009 dt:05.05.2009, having noticed that the promotions granted were not proper. The C&DSE, AP. Hyderabad ordered for review of promotions. As per the directions of C&DSE, a committee was constituted for verification of the certificates, seniority and other service particulars for reviewing promotions of HM Gr.II and the Committee submitted its report. Based on the report of review committee, proposals in respect of eligible candidates for promotions and the list of juniors who were erroneously promoted were submitted by the District Educational Officer, Adilabad to the Regional Joint Director of School Education, Warangal.

In this regard I submit that, the then Regional Joint Director of School Education, Warangal reviewed the promotion and issued orders promoting eligible School Assistants according to seniority as GHM Gr.II duly reverting and cancelling the promotion orders of (10) junior School Assistants vide proc. Rc.No.308/A1/ZP/ADB/09 dt:03.10.2009, and requested the District Educational Officer, Adilabad to revert candidates as School Assistants. Posting orders to the reverted School Assistants including the petitioner as School Assistant were issued vide DEO, Adilabad Lr.No.B1/13025/REV/2009, Dt:05.10.2009.

I submit that, in terms of provision in Rule-3 as notified vide G.O.Ms.No.10, dt.23.01.2009, nowhere in the Rules it is mentioned that in Marathi Medium High Schools, the posts of GHM Gr.II should be filled with School Assistants of Marathi Medium and one must come within the Zone of consideration by virtue of seniority. On review of the matter and on examination of special rules notified vide G.O.Ms No.9., Edn, dt.23.01.2009 and G.O.Ms No.10/Edn., dated:23.01.2009, the C&DSEAP, Hyderabad has cancelled their earlier proceedings issued vide Proc. Rc. No. 173/UC-2/2000 dt: 19.02.2001 and Proc. Rc.No.2/PTC/09 date: 30.01.2009. According to the said orders, the then RJDSE, Warangal has reviewed the GHM Gr.II promotions and considered the eligible candidates for promotion duly reverting the junior most School Assistants who got promotion under Urdu Medium and Marathi Medium vide proc. Rc.No.308/A1/ZP/ADB/09 dt: 03.10.2009.

In this regard, it is submitted that the Hon'ble High Court, has passed orders in WP No.8054 of 2010 on Dt. 10.08.2022 as follows:

"The Tribunal was justified in setting aside the cancellation order of promotion as the impugned order was passed in violation of the principles of natural justice. Hence this court is not inclined to interfere with the order passed by the Tribunal".

I submit that, Sri Suresh, School Assistant (Hindi), ZPSS Mudhole, Nirmal District has submitted a representation on 09.06.2023 requesting to implement the orders of Hon'ble High Court dated 10.08.2022 in W.P.No.8054/2010. In this regard a show cause notice was issued to him vide this office Proc. Rc.No.1217/A1/2023, Dt:30.08.2023 as why his promotion shall not be cancelled, later the said show cause notice was cancelled vide this office Proc. Rc.No. 1217/A1/2023, Dt: 19.09.2023.

I submit that, the petitioner again filed W.P.No.25000 of 2023. The Hon'ble High Court has disposed the W.P.No.25000 of 2023 on 08.09.2023 with the following order

5. Having regard to the fact that the representations of the petitioner are pending and there is also a Court order in favour of the petitioner, this Court deems it fit and proper to direct the respondents to implement the orders of the Tribunal dated 17.02.2010 in O.A.No. 10938 of 2009 and dispose of the representations of the petitioner. The entire exercise shall be completed within a period of four (04) weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition is disposed of at the admission stage. There shall be no order as to costs.

In this regard it is submitted that, the petitioner is still working as School Assistant (Hindi). In order to implement the Hon'ble High Court orders, the petitioner has to be restored as GHM Gr.II w.e.f. 03.10.2009.

In this regard, I submit that, the Regional Joint Director of School Education, Warangal has requested to take necessary action to implement the order of Hon'ble APAT in OA.No. 10938 of 2009, order of Hon'ble High Court dated 10.08.2022 in W.P.No.8054 of 2010 and order dated 08.09.2023 in W.P.No.25000 of 2023 to avoid legal complications.

Therefore, I am herewith enclosing a copy of the report submitted by the Regional Joint Director of School Education, Warangal with a request to issue necessary orders for implement the order of Hon'ble APAT in OA.No. 10938 of 2009, order of Hon'ble High Court dated 10.08.2022 in W.P.No.8054 of 2010 and order dated 08.09.2023 in W.P.No.25000 of 2023 to avoid legal complications in the matter

Encl:- As above.

Yours faithfully.

Director, School Education

(B). The averments made in the counter affidavit filed on behalf of respondent No.3 and in particular para Nos.10 and 11 are extracted hereunder:

"10. It is respectfully submitted that the Petitioner name was also included in the seniority list for the promotion counseling to the post of Gazetted Head Master Gr.II which was held on 24.09.2023., He stood at Sl.No. 600 in the seniority list but he did not come into the zone of promotion.

11. It is respectfully submitted that a detailed report has been submitted in the matter to the Director of School Education, Telangana, Hyderabad vide Lr.Rc.No.1217/A1/2023, Dt: 20.09.2023 explaining the facts and requested to take necessary action for implementation of the orders of Hon'ble / PAT Dated 17.02.2010 in O.A.No.10938 of 2009, Hon'ble High court orders dated 10.08.2022 in W.P.No.8054 of 2020 and Hon'ble High court orders dated 08.09.2023 in W.P.No.25000 of 2023. In turn the Director of School Education has submitted report to the Government vide Lr.No.1312/SER.III-2/2023, dated : 10.11.2023. The matter is under the examination of the Government".

(C). The relevant portion of the order dated 10.08.2022 passed in W.P. No. 8054 of 2020 is extracted hereunder:

"Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal has merely directed the petitioners to set aside the impugned cancellation order of promotion of the 1st respondent on the ground that no notice was given to the 1st respondent. The Tribunal was justified in setting aside the

cancellation order of promotion as the impugned order was passed in violation of the principles of natural justice. Hence, this Court is not inclined to interfere with the order passed by the Tribunal.

Accordingly, the Writ Petition is dismissed. No costs."

D. The relevant portion of the order passed by the Tribunal in O.S.No.10938 of 2009 with VMA No.2280 of 2009 & C.A.No.1102 of 2009 on 17.02.2010, in particular para No.9 is extracted hereunder:-

"In view of the above facts and circumstances of the case, the impugned orders dated:03.10.2009 issued by the Regional Joint Director of School Education cancelling the promotion orders issued to the applicants and the subsequent orders issued by the District Educational Officer posting the applicant as School Assistants are set aside, by leaving it open to the Regional Joint Director of School Education, Warangal to pass appropriate orders after putting the applicant on notice and by examining the representations to be submitted by the applicants in detail. Till the disposal of the representations filed by the applicants by passing speaking orders status-quo of the applicants as on the date of issuance of the impugned orders by the Regional Joint Director of School Education, Warangal i.e., 03.10.2009 shall be maintained".

DISCUSSION AND CONCLUSION:-**5. The learned counsel appearing on behalf of the petitioner mainly puts-forth the following submissions:-**

a) The petitioner herein had approached the Tribunal by filing O.A. No. 10938 of 2009 with prayer to direct the respondents to continue the petitioner as HM Gr.II at ZPSS Easara (UM), MP Mudhole. The Tribunal passed interim orders in O.A. No. 10938 of 2009 dated 09.10.2009 directing the respondents to continue the petitioner HM-II in the respective places and subsequently the Tribunal passed final orders in O.A. No. 10938 of 2009 with VMA No. 2280 of 2009 & C.A. No. 1102 of 2009 on 17.02.2010 in favour of the petitioner.

b) The State Government had filed W.P. No. 8054 of 2010 against the Judgment dated 17.02.2010 passed in O.A. No. 10938 of 2009 in petitioner's favour and the same was dismissed on 10.08.2022 stating that the tribunal was justified in setting aside the cancellation order of promotion as the impugned order therein was passed in violation of the principles of natural justice.

c) The petitioner submits that the petitioner's name was also included in the seniority list at Serial No.553 for the promotion to the post of HM Gr.II but however, the petitioner's case did not come into the zone of promotion and further a detailed report had been submitted in the matter to the Director of School Education, Telangana State, Hyderabad vide Lr.Rc.No. 1217/A1/2023, dated 20.09.2023 requesting to take necessary action for implementation of the orders of APAT dated 17.02.2010 in O.A. No.10938 of 2009 and this Court passed an order dated 10.08.2022 in W.P. No. 8054 of 2010 and an order dated 08.09.2023 in W.P. No. 25000 of 2023 and in turn the Director of School Education had submitted report to the Government vide Lr.No. 1312/SER.III-2/2023, dated 10.11.2023 and the matter is under examination since 2023 and no orders had been passed as on date.

Based on the aforesaid submissions, the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled for the relief as prayed for by the petitioner in the present writ petition.

6. The learned Standing Counsel placing reliance on the averments made in the counter affidavit filed on behalf of

respondent No.3 in particular para Nos.10 and 11 (referred to and extracted above) contends that the writ petition could be disposed of directing the Government to examine the subject issue and take a decision as per the report forwarded by the Director of School Education to the Government vide Lr.Rc.No. 1312/SER III-2/2023, dated 10.11.2023 (referred to and extracted above).

7. The learned counsel appearing on behalf of the petitioner does not dispute the said submission made by the learned Standing Counsel appearing on behalf of the respondent No.3. Upon consent of learned counsel on record, the following order is passed.

8. Taking into consideration:

(a) The aforesaid facts and circumstances of the case,

(b) The submissions of the learned counsel appearing on behalf of the petitioner, the learned Standing Counsel appearing on behalf of respondent No.3 and the learned Assistant Government Pleader for Services-I, appearing on behalf of respondents.

(c) The averments made in the counter affidavit filed on behalf of the respondent No.3 and in particular para Nos.10 and 11 (referred to and extracted above),

(d) The discussion and conclusion as arrived at para Nos.5 to 7 of the present order.

The writ petition is disposed of directing the respondent No.1, to take into consideration the order dated 17.02.2010 passed in O.A. No. 10938 of 2009 in favour of the petitioner herein and the order dated 08.09.2023 passed in W.P. No. 25000 of 2023 and duly examine the report submitted by the Director of School Education to the Government vide Lr.No.1312/SER III-2/2023, dated 10.11.2023 and pass appropriate orders on the subject issue within a period of three (3) weeks from the date of receipt of a copy of the order, in accordance to law, in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner, duly considering the representation of the petitioner dated 09.06.2023, seeking implementation of the order dated 10.08.2022 passed in W.P. No. 8054 of 2010 in favour of the petitioner (referred to and extracted

above) and duly communicate the decision to the petitioner. However, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any pending, in the Writ Petition shall also stand closed.

**SD/ K.BHAVANI SWAMY
ASSISTANT REGISTRAR**

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal Secretary, School Education Department, T.S.Secretariat, Hyderabad.
2. The Director of School Education, Government of Telangana, at Hyderabad.
3. The Regional Joint Director of School Education, Warangal.
4. The District Educational Officer, Nirmal District.
5. One CC to SRI A.RADHA KRISHNA, Advocate [OPUC]
6. Two CCs to GP FOR SERVICES I, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

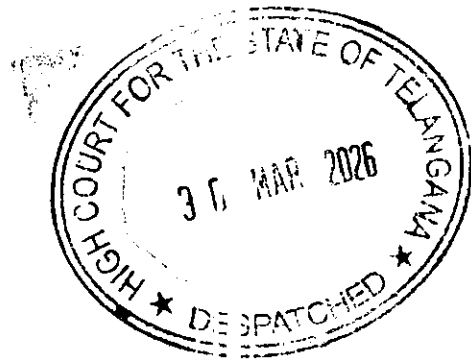
PMK
BS



HIGH COURT

CC TODAY

DATED:04/08/2025



ORDER

WP.No.26501 of 2023

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(10) - JKS
30/3/26.