

***THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

+W.P.Nos.10316 and 10412 OF 2019

% 16-02-2024

Kandula Narmada and another

...Petitioners

Vs.

\$ Telangana Residential Educational Institutions
Recruitment Board and others

.... Respondents

!Counsel for the petitioners : Smt.K.Udaya Sri

Counsel for the respondents : N.Bhupal Reddy

<Gist :

>Head Note:

? Cases referred:

(Civil Appeal No.1313 of 2008 dated 15.02.2008)

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD**

* * * *

W.P.Nos.10316 and 10412 OF 2019

Between:

Kandula Narmada and another

....Petitioners

Vs.

Telangana Residential Educational Institutions
Recruitment Board and others

.... Respondents

ORDER PRONOUNCED ON: 16.02.2024

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : Yes

NAMAVARAPU RAJESHWAR RAO, J

HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITON Nos.10316 of 2019 and 10412 of 2019

COMMON ORDER:

Since the issue involved in these writ petitions is one and the same, both these writ petitions are being heard and disposed of by this common order.

2. W.P.No.10412 of 2019 is filed seeking the following relief:

“Declare the action of the respondents in not calling for verification of the certificates of the petitioner bearing Hall Ticket Nos.136303047 (paper-I) and Hall Ticket No. 112317083 (paper-II) and bearing Application No. 203783 is illegal and arbitrary; to declare the proceedings Rc.No.133/TREI-RB/2018 dated 06.08.2019 insofar as the petitioner is concerned is illegal, arbitrary and contrary to the Presidential Order; declare that the petitioner is eligible to be considered for appointment to the post of Degree College Lecturer in Economics as per the Presidential Order; and consequently direct the respondents to permit the petitioner to participate in the verification of certificates and further process of selection, i.e., demonstration for the post of Degree College Lecturer in Economics in pursuance of the notification number 04/2018 dated 02.08.2018; with a further direction to the respondents to appoint the petitioner to the post of degree college lecturer in economics as per her merit...”

3. W.P.No.10316 of 2019 is filed seeking the following relief:-

“... declare the action of the Respondents in not calling for verification of the certificates of the Petitioner bearing Hall Ticket No.134303044 (Paper-I) and Hall Ticket No. 109321015 (Paper-II) and bearing Application No.203394 is illegal and arbitrary; ii) declare the proceedings Rc.No.133/TREI-RB/2018 dated 06.08.2019 in so far as the Petitioner is concerned is illegal

arbitrary and contrary to the Presidential Order; iii) declare that the Petitioner is eligible to be considered for appointment to the post of Degree College Lecturer in History as per the Presidential Order; and iv) consequently direct the Respondents to permit the Petitioner to participate in the verification of certificates and further process of selection i.e., demonstration for the post of Degree College Lecturer (History) in pursuance of the Notification No. 04/2018 dated 02.08.2018 with a further direction to the Respondents to appoint the Petitioner to the post of Degree College Lecturer in History as per her merit.....”.

4. Heard Sri G. Vidya Sagar, learned Senior Counsel representing Smt. K. Udaya Sri, learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents.

5. For the sake of convenience, the facts in W.P.No.10412 of 2019 are discussed hereunder:-

(i). The petitioner herein completed her integrated Masters in Economics from 2010 to 2015 in Hyderabad Central University. She later qualified for UGC-NET and has been pursuing her Ph.D. in Economics from Hyderabad Central University. Pursuant to a Notification issued by the Telangana Residential Educational Institutions Recruitment Board (TREI-RB), Hyderabad, dated 02.08.2018, inviting applications for the post of Degree College

Lecturers in various Residential Educational Institutions, the petitioner applied for the post of Lecturer in Economics vide an online application No. 203783. As per the Notification, in Telangana Tribal Welfare Residential Educational Institutions Society (TTWREIS), two posts in Economics in OC (Women) category were notified. In Telangana Tribal Welfare Residential Educational Institutions Society (TTWREIS) Women Institutions, four vacancies were notified under OC (Women) category, out of which, three were earmarked for Zone-V and one in Zone-VI. In Telangana Social Welfare Residential Educational Institutions (Women) (TSWREIS-W) two vacancies were notified in Zone-VI under OC (Women) category.

(ii) The petitioner secured 47.75 marks in Paper-I and 43 marks in Paper-II in the examination which were held on 14.02.2019 for Paper-I, and on 17.02.2019 for Paper-II, respectively. Thus, she secured a total of 90.75 marks and secured Rank No. 2 as per the results declared for the post of Degree College Lecturer in Economics.

(iii) However, in the certificate verification call made by the respondents vide Notification dated 30.04.2019, the hall ticket

number of the petitioner was not to be found. The petitioner made an online representation on 01.05.2019 and made another representation to the Chairman, TREI-RB, Hyderabad. However, in the response issued to the petitioner on 16.05.2019, it was stated that she belonged to a State other than Telangana, and there are no open category unreserved vacancies in general Institutions. Further, the petitioner was also informed that the unreserved open category posts would be filled by general merit of both, the candidates of the State of Telangana, as well as those of other states. In the said posts, 70% are reserved for Telangana State local specified zones, and 30% are earmarked in Zone V and Zone VI for both the candidates of Telangana, as well as the candidates of other states. As such, the number of the petitioner was not shortlisted for certificate verification. Aggrieved by the said decision, the petitioner has filed the present writ petition.

6. Learned counsel for the petitioner contended that the recruitment notification at Para No. V (5) specifies that zonal and local reservations shall be followed as per Para No. 8 of the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975, read with

G.O.Ms.No.124, General Administration Department, dated 07.03.2002 and other orders issued by the Government within the meaning of Sections 3 and 97 of the Andhra Pradesh State Reorganisation Act, 6 of 2014.

7. Learned counsel for the petitioner further contended that the petitioner had studied in the State of Kerala till her 12th Standard and later pursued her higher studies in Hyderabad. As such, though she is not entitled to be considered as a local candidate in respect of the Zones specified in pursuance of the Presidential Order, 1975, she is entitled to be considered under the non-local category in the unreserved post in terms of Para No.8 of the Presidential Order.

8. Learned counsel for the petitioner further contended that as per G.O.Ms.No.124 dated 07.03.2002, the posts notified in Notification No.04 of 2018 would fall under multiple cadre posts. They shall comprise of 70% of the posts earmarked for local areas, while 30% of the posts shall consist of the combined merit list of local as well as non-local. As such, the petitioner is entitled to be considered in the 30% of the posts consisting of the combined merit list for the post of Degree College Lecturer (Economics).

9. Learned counsel for the petitioner further contended that the Notification No.04/2018 dated 02.08.2018 does not demarcate the criteria for selection for the general institutions and women institutions, and all the institutions are treated alike. The same holds true even for the Presidential Order dated 20.10.1975 and the G.O.s issued by the State Government. Therefore, the petitioner, being ranked No.2 in the merit list, is eligible to be considered for the two unreserved vacancies out of the eight vacancies notified. As such, the recruitment authorities must follow the Notification and not change the recruitment rules. Therefore, the petitioner is entitled for appointment to the post of Degree College Lecturer in Economics, as per her merit.

10. Per contra, learned Standing Counsel for the 1st respondent filed a counter affidavit, mainly contending that the petitioner is not entitled for appointment to the said post, even though she obtained Rank No.2 in the combined merit list, since she is a non-local candidate. Further, as no vacancies are available under OC General Un-Reserved category in the General (Men) Degree Colleges of TTWREI Society, and as there is no reservation for women candidates of other States for the post of Lecturers in

Women's Degree Colleges of TTWREI Society, TSWREI Society and other Residential Societies in Telangana State as per G.O.Rt.No.1274, dated 04.06.2016, the petitioner is not entitled to be appointed as a Degree College Lecturer (Economics). As per Memo.No.42005, GAD (Services-D) Department, dated 06.08.2002, when only one post is to be filled up, it will only go to a local candidate. Hence, the contentions made by the learned counsel for the petitioner that the Respondent Board did not follow the Presidential Order, Guidelines of the Notification and G.Os. are incorrect and unsustainable, and there is no merit in the contentions raised by the petitioner. Therefore, the claim of the Petitioner for the process of final selection cannot be accepted.

11. Learned Standing Counsel further submits that the Government of Telangana has taken a policy decision to provide 100% reservation to local women of Telangana State in the Women's Institutions of all Residential Societies, as per the Guidelines notified at Item No.8(iv) of Para 5 of the Notification No.04/2018, dated 02.08.2018, issued by the Respondent Board. In view of the same, the petitioner herein was not called for verification of documents in the ratio of 1:2 for further selection

process held on 16.05.2019. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

12. Per contra, learned counsel appearing for the petitioner in W.P.10316 of 2019 filed a reply affidavit stating that the petitioner secured 50.75 marks in Paper-I and 62.50 marks in Paper-II, and accordingly, a total of 113.25 marks in the recruitment examinations. She secured the first rank as per the results declared for the post of Degree College lecturer in History. He further contended that there is no clause either in the Notification No. 04/2018, or in the G.O.Rt.No.1274 dated 04.06.2016, that the reservation for the post of Lecturers of Women's Degree Colleges is confined only to the women candidates of the State of Telangana. He further contended that it is incorrect to state that the State Government has taken a policy decision to provide 100% reservation to the local women of the State of Telangana in the Women's Institutions of all Residential Educational Societies, which is contradictory to the Presidential Order dated 20.10.1975.

13. Learned counsel appearing for the petitioners submits that this Court has passed the following interim order in IA.No.1 of 2019 in W.P.10412 of 2019 on 22.05.2019.

"Prima facie there is merit in the contention of the petitioner. Hence, there shall be interim direction as prayed for".

14. On 22.08.2019, this Court passed the following interim order in I.A.No.4 of 2019 in W.P.No.10412 of 2019:

"Learned Government Pleader for Respondents submits that one post of Degree College lecturer (Economics) is kept vacant because of pendency of this writ petition.

In view of the said submission, the respondents are directed not to fill up the said one post of Degree College lecturer (Economics)"

15. Learned counsel appearing for the petitioners further submits that this Court has passed the following interim order in IA.No.1 of 2019 in W.P.10316 of 2019 on 15.05.2019.

"The respondents are directed to permit the petitioner to participate in the Certificate Verification scheduled on 16.05.2019 and further consider the case of the petitioner for further selection process to the post of Degree College Lecturer (History), as the petitioner has secured Rank No.1 in the selection."

16. Further, on 22.08.2019, this Court passed the following interim order in I.A.No.4 of 2019 in W.P.No.10316 of 2019:

“Learned Government Pleader appearing for the respondents submits that one post of Degree College lecturer (History) is kept vacant because of pendency of this writ petition.

In view of the said submission, the respondents are directed not to fill up the said one post of Degree College lecturer (History)”

17. Therefore, learned counsel appearing for the petitioners submit that appropriate orders be passed in the writ petitions by directing the respondents to consider the petitioners’ case for appointment to the posts of Degree College lecturer (Economics) and Degree College lecturer (History), respectively.

18. On the other hand, learned Standing Counsel appearing for the respondents contends that in view of G.O.Rt.No.1274 dated 04.06.2016, and in view of the policy decision of the State Government to provide 100% reservation to the local women candidates of the State of Telangana, the petitioners are not entitled to be considered for appointment to the posts of Degree College lecturer (Economics) and Degree College lecturer (History) respectively.

19. This court, having considered the rival submissions made by the learned counsel for the respective parties, is of the

considered view that pursuant to the above interim orders passed by this Court, one post of Degree College Lecturer (Economics) and one post of Degree College Lecturer (History) are kept vacant because of pendency of these writ petitions.

20. At the outset, it is to be determined whether there is indeed any provision in G.O.Rt.No.1274, dated 04.06.2016 providing 100% reservation to local candidates of the State of Telangana, as contended by the learned Standing Counsel for the respondents. G.O.Rt.No.1274 states as follows:

“2. Government, after careful examination of the matter and keeping in view the aforesaid recommendations, hereby issue the following guidelines:-

i) Women Staff shall only be recruited in all cadres of posts in the Schools/Institutions meant for Girls, in terms of sub-rule(3) of rule 22-A of Telangana State and Subordinate Service Rules, 1996;

ii) the Schools/Institutions meant for Boys shall be treated as General Schools/Institutions and the posts in such Schools/Institutions shall be filled with men and women candidates, in terms of sub-rule(2) of rule 22-A of Telangana State and Subordinate Service Rules, 1996; and

iii) separate rosters in each cadre shall be maintained for General (Boys) Schools/Institutions and for girls Schools/Institutions, in accordance with sub-rule(2) and (3) of

rule 22-A of Telangana State and Subordinate Service Rules, 1996, respectively.”

21. Further, G.O.Ms.No.124 dated 07.03.2002 states as follows:

“3: The Provisional list shall be divided into two parts. The first part shall comprise 30% of the posts consisting of combined merit lists of locals as well as non-locals and the remaining second part shall comprise the balance 70% of the posts consisting of locals only and the posts shall be filled duly following the rule of reservation.”

22. A plain reading of the aforementioned G.Os. shows that there is no provision in the said G.Os. to provide 100% reservation to the local candidates of the State of Telangana. Pursuant to G.O.Ms.No.124, dated 07.03.2002, the State Government, while following the manner of selection of local candidates, shall provide for the provisional list, which shall be divided into two parts: the first part comprising of 30% of the posts consisting of the combined merit lists of locals as well as non-locals and the second part, which shall comprise the balance 70% of the posts consisting of locals only. The aforementioned provision speaks for reservation only upto an extent of 70% of the posts to the local candidates, and states that the remaining 30% of the posts shall

be filled up by preparing a combined merit list of both, local as well as non-local candidates.

23. Regulation 8(8) of the Presidential Order, dated 20.10.1975 states as follows:

(8) Notwithstanding anything contained in the foregoing provisions of this paragraph.

(a) there shall be at least one post left unreserved out of the post filled by direct recruitment at any time to any local cadre; and

(b) there shall be, as far as possible, at least one post allocated for the local candidates in respect of each local area.”

24. Regulation 8(8)(a) clearly states that during the direct recruitment to any local cadre, there shall be atleast one post left unreserved. As such, the respondent Board ought to have filled up the said posts of Degree College lecturer (Economics) and Degree College lecturer (History) in accordance with G.O.Ms.No.124 dated 07.03.2002 and ought to have called the petitioners for certificate verification, on the basis of the ranks obtained by them in the Recruitment Test. Therefore, this Court is of the considered view that the contention of the learned Standing Counsel for the respondents, that there is a policy decision to provide for 100%

reservation to the local candidates of the State of Telangana in the recruitment process is not sustainable, as no such provision exists either in G.O.Rt.No.1274, dated 04.06.2016 or in G.O.Ms.No.124 dated 07.03.2002.

25. Further, even if such a contention were to be considered, the Respondent Board ought to have specified the reservation criteria in Notification No.04/2018 issued on 02.08.2018. The relevant portion of the reservation criteria mentioned in the aforesaid Notification reads as follows:-

“Zonal/Local: - The Zonal and Local Reservations shall be followed as per the Para-8 of A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (G.O.P. No. 674, G.A. (SPF-A) Dept., Dated: 20/10/1975) read with G.O.Ms.No.124, General Administration (SPF-A) Department, dated: 07/03/2002 and other orders issued by the Government and within the meaning of Sections 3 and 97 of A.P. State Reorganization Act 06/2014”.

26. The Notification places reliance upon the Presidential Order dated 20.10.1975 and also on G.O.Ms.No.124, dated 07.03.2002 with regards to the Zonal/Local reservation policy. As such, there is no distinct provision made in the Notification issued on

02.08.2018 for reserving all the seats in the Institutions run by TSWREI Society or TTWREI Society for the local candidates of Telangana State only, as contended by the learned Standing Counsel for the respondents. Insofar as the Presidential Order dated 20.10.1975 and G.O.Ms.No.124, dated 07.03.2002 are concerned, there are clear demarcations in terms of reservation for local as well as non-local candidates. As such, there is no force in the contention of the learned Standing Counsel for the respondents that all the posts in Women's Degree Colleges are reserved for local women candidates of Telangana State by virtue of G.O.Ms.No.124 and the Presidential Order. The decision to reserve all the posts of the aforementioned Institutions, at best, seems to be an after-thought. Further, the Hon'ble Apex Court in ***K.Manjusree Vs. State of A.P. and another***¹ held that it is a well-established legal principle that the rules of recruitment cannot be changed after the notification has been issued. The petitioner in W.P.No.10412 of 2019 has secured 2nd rank in Economics, while the petitioner in W.P.No.10316 of 2019 has secured 1st rank in History and in view of the interim orders passed by this Court, the said posts are kept vacant. As such, the

¹ (Civil Appeal No.1313 of 2008 dated 15.02.2008)

contention of the learned Standing Counsel appearing for the respondents that the State Government has taken a policy decision to provide 100% reservation to the local candidates of the State of Telangana, and that there is no place for considering non-local candidates in the recruitment process, is unsustainable. Therefore, the action of the respondents in not considering the case of the petitioners for appointment to the posts of Degree College Lecturer (Economics) and Degree College Lecturer (History) respectively, is highly arbitrary and unreasonable. Hence, this Court is of the considered view that the petitioners are entitled for appointment to the posts of Degree College Lecturer (Economics) and Degree College Lecturer (History) respectively.

W.P.No.10412 of 2019

27. Accordingly, W.P.No.10412 of 2019 is disposed of directing the respondents to consider the case of the petitioner for appointment to the post of Degree College Lecturer (Economics) under Zone-V or Zone-VI and pass appropriate orders in accordance with law. There shall be no order as to costs.

W.P.No.10316 of 2019

28. In view of the disposal of W.P.No.10412 of 2019, W.P.No.10316 of 2019 is also disposed of directing the respondents to consider the case of the petitioner for appointment to the post of Degree College Lecturer (History) under Zone-V or Zone-VI and pass appropriate orders in accordance with law. There shall be no order as to costs.

Pending Miscellaneous petitions, if any, shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

Date: 16.02.2024
L.R. to be marked
(B/o)
Prv