

S. Jagadeesan

Vs.

Ayya Nadar Janaki Ammal College and Another

Civil Appeal No. 3292 of 1981

(A.P. Sen, E.S. Venkataramiah, R.B. Misra JJ)

11.01.1983

JUDGMENT

A. P. SEN, J. -

1. This appeal by special leave is directed against the judgment and order of the Madras High Court quashing the resolution of the syndicate of the Madurai Kamaraj University dated July 26, 1980 and directing the reinstatement of the appellant under Section 19(1) of the Tamil Nadu Private Colleges (Regulation) Act 1976 on the ground that the termination of his services without the prior approval of the competent authority viz. the University was illegal, void and inoperative.

2. Shri Ramamurthi, learned counsel for the appellant contends that the High Court should not have entertained the writ petition filed by respondent No 1, i.e. Ayya Nadar Janaki Ammal College when there was an alternative remedy by way of an appeal under Section 37 of the Act. It is urged that the University had ordered reinstatement of the appellant by passing the impugned order on the basis that the order of termination of service of the appellant fell within the ambit of sub-section (1) of Section 19 of the Act and being without the prior approval of the competent authority viz. the University was illegal. The High Court while setting aside the order of reinstatement passed by the University held that the termination of the services of the appellant was not by way of punishment but his services were terminated during the period of probation and that such a termination does not fall within the purview of the sub-section (1) of Section 19 of the Act. It accordingly held that the University had exceeded its jurisdiction in directing the reinstatement of the appellant and therefore the impugned order was liable to be set aside by issuing an appropriate writ. The decision of the High Court turns on a construction of the words "otherwise terminated" in sub-section (1) of Section 19 of the Act. The High Court observes that the words "otherwise terminated" in sub-section (1) of Section 19 of the Act must be read ejusdem generis with the words "dismissed, removed or reduced in rank" therein and therefore the words "otherwise terminated" must have a meaning analogous or similar to "dismissal, removal or reduction in rank". Learned counsel contends that the view taken by the High Court on the construction of the words "otherwise terminated" in sub-section (1) of Section 19 of the Act runs counter to the observations made by Chandrachud C.J. in *All Saints High School, Hyderabad v. Government of A.P.* ((1980) 2 SCR 924, 936 : (1980) 2 SCC 478 : AIR 1980 SC 1042) while interpreting the words "otherwise terminated" in Section 3 of the Andhra Pradesh Recognized Private Educational Institutions Control Act, 1975. Shri Anil Divan, learned counsel for respondent No. 1 on the other hand contests that the judgment of the High Court in contrary to the decision of this Court in *All Saints High School* case ((1980) 2 SCR 924, 936 : (1980) 2 SCC 478 : AIR 1980 SC 1042). Our attention is drawn to the observations of Kailasam, J. at p. 1001 where the learned Judge appears to have given a restricted meaning to the power of prior approval conferred on the competent authority under Section 3 of the Andhra Pradesh Act. Learned counsel submits

that the question as to the construction of the words "otherwise terminated" in sub-section (1) of Section 19 of the Act be left to be decided by the prescribed authority along with other questions involved.

3. Without entering into the controversy as to the meaning to be given to the words "otherwise terminated" in sub-section (1) of Section 19 of the Tamil Nadu Private Colleges (Regulation) Act, 1976, we set aside the judgment of the High Court and dismissed the writ petition filed by respondent No. 1 with a direction that respondent No. 1 may prefer an appeal to the prescribed authority under Section 37 of the Act, if so advised. If such an appeal is preferred within 30 days of the passing of this order, the prescribed authority shall entertain and decided the appeal on merits, without any objection as to limitation.

4. The appeal therefore succeeds and is allowed with costs. The judgment of the High Court is set aside without expressing any opinion on its correctness or otherwise. The writ petition filed by respondent No. 1 in the High Court is dismissed. The costs throughout are quantified at Rs. 3000 which will be paid by respondent No. 1.

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