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**(2012) 09 AP CK 0038**

**Andhra Pradesh High Court**

**Case No:** Writ Petition No. 15274 of 2009

Sri. P. Ramanujayya,  
Attendent, Sri. Y.N.  
College, Narsapur,  
West Godavari District  
and 3 Others

APPELLANT

Vs

The Government of  
Andhra Pradesh and 3  
Others

RESPONDENT

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**Date of Decision:** Sept. 12, 2012

**Citation:** (2013) 4 ALD 701

**Hon'ble Judges:** Nooty Ramamohana Rao, J

**Bench:** Single Bench

**Advocate:** S.V.R. Subrahmanyam, for the Appellant; P. Rajagopala Rao - GP for Higher Education and Sri. A.V. Sessa Sai, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

Hon"ble Sri. Justice Nooty Ramamohana Rao

1. This writ petition is instituted by four individuals working as attenders in Sri Yerramilli Narayana Murty College, Narsapur, West Godavari District, seeking directions to the respondents to regularize their services in the said college. Sri. Yerramilli Narayana Murty College, Narsapur, henceforth referred to as the "College", is established during the year 1949, immediately in the aftermath of India gaining independence, for purposes of exclusively catering to the needs of higher education of the student community in a remote rural area of West Godavari District, the college was established by a philanthropist, freedom fighter, and an advocate of great eminence. This college was admitted to grant-in-aid through proceeding 43/D2-I-50.51 dt.16.3.1951 of the Director of

Public Instructions, Government of Madras, Madras, as those parts of our State were part of the composite State of Madras then. Subsequently, after the formation of State of Andhra Pradesh, the college was also admitted to 100% grant by the Government of Andhra Pradesh through their G.O. Ms. No. 948 Edn Dt 1.4.1964. It is hardly in doubt that this college has been rendering yeoman service to the Society and striving very hard to promote the cause of education in a remarkable way. It was also heartening to note that, the National Accreditation Council graded the college with "A" grade. The college attracts students from far and wide. The petitioners were recruited as attenders in the said college on 03.10.1985, 04.09.1988, 04.09.1988 and 04.09.1988 respectively. The State Government has announced a policy decision relating to regularization and absorption of daily wage/NMR or consolidated pay employees working in various departments and organizations under its control and announced this policy decision through their G.O. Ms. No. 212 F&Plg (PC.III) Department dated 22.4.1994. One of the important conditions specified therein was, the employees must have put in a minimum period of five years of service and should be continuing in service as on 25.11.1993. It will also be appropriate to notice that, this policy decision was extended for the aided vacancies available in educational institutions by the State Government and orders in that regard have been passed in their U.O. Note No. 24714-A/224/A3/PC.III/98, Fin.(PC.III) Department dated 21.08.1998. The cases of the petitioners were thus required to be considered for regularization against aided vacancies. The Correspondent of the college has taken up the issue with the Director of Collegiate Education, Andhra Pradesh on 30.04.2005. The Director sought for certain clarifications from the Correspondent through his memo dated 23.09.2005. Upon receipt of the necessary clarifications, the Director of Collegiate Education through his letter dated 06.06.2006 has taken up with the State Government for regularization of their services. It is worthy to notice the following statement made by the Director of Collegiate Education in this regard in the aforementioned communication, which reads as under:

I further wish to state that the proposal has been examined and it is found that the above candidates have satisfied the conditions stipulated in G.O. Ms. No. 212 Finance & Plg Dt.22.4.1994.

The details of their service particulars are furnished in the Annexure appended to this letter.

I therefore request the Government to issue necessary regularization orders at the earliest.

2. Then the Government through their Memo No. 7232/CE. II-1/2006-1 dated 14.06.2006 required the Director of Collegiate Education to furnish information on the following aspects:

(i) A copy of the G.O. No. and date in which the posts were admitted to grant-in-aid,

(ii) The number of posts admitted to grant-in-aid, and the number of individuals working against aided posts,

(iii) How the 4 aided posts arose now and from which date,

(iv) A certificate from the management to the effect that there are no seniors for regularization of services.

3. It is the case of the college management that the information sought for by the Government has been promptly furnished to it through their communication dated 22.07.2006 submitted to the Director of Collegiate Education. Again, the Government in the Higher Education Department through their Memo No. 7232/CE.II-1/2006-3 dated 26.09.2006 called for some more information from the Director of Collegiate Education and that information relates to:

(i) When was the College admitted to grant-in-aid,

(ii) Were the 3 persons i.e., (i) Sri P. Ramanujayya (ii) Smt. R. Aruna Kumari (iii) Sri R. Ramesh appointed against aided posts or not?

(iii) If so, are the unaided employees, who satisfied the conditions stipulated in G.O.212 being considered for regularization against aided vacancies.

4. Then, the Commissioner of Collegiate Education through his Letter Rc. No. 648/Adm III.I/2005 dated 21.02.2007 furnished the entire information sought for by the Government. But strangely, the State Government passed orders through their Higher Education Department Memo dated 20.04.2009 refusing to accede to the request of the Management of the College. Challenging this order of the State Government contained in their memo dated 20.04.2009, the present writ petition is instituted. I, therefore, consider it appropriate to extract the impugned order which reads as under:

The attention of the Commissioner of Collegiate Education A.P., Hyderabad is invited to the reference cited. He is informed that the service rendered in an unaided post for which remuneration was paid by the private management is not countable for the purpose of regularization of services under G.O. Ms. No. 212, Finance (PC.III) Department, dated 22.04.1994. Therefore, the request of the management for regularization of services of certain NMRs in terms of the said G.O. is not feasible of acceptance and it is hereby rejected.

2. The Commissioner of Collegiate Education A.P., Hyderabad shall take necessary action accordingly.

5. The only reason assigned by the government for declining to regularize the services of the writ petitioners is that, the service rendered in an unaided post for which remuneration was paid by the private management is not countable for purposes of regularization of

services in terms of the policy decision contained in G.O. Ms. No. 212 F&PIg (PC.III) Department dated 22.4.1994. To say the least, the reason assigned by the State Government is unsustainable on the very face of it. If an employee is working against the unaided vacancy in an educational institution, it is the management of the said educational institution which will have to pay for their services and merely because such employees were paid by the management, their request for regularization of services cannot be denied or deferred. Further, the impugned order is clearly contrary to the policy decision announced by the very State Government through their G.O. Ms. No. 35 Higher Education (CE.II-1) Department dated 27.03.2006, wherein the State Government in paragraph 9(c) has clearly set out that the benefit of G.O. Ms. No. 212 F&PIg (PC.III) Department dated 22.4.1994 read with U.O. Note of the Finance Department dated 21.08.1998, is applicable to those non-teaching staff in Aided Educational Institutions who satisfy the conditions prescribed therein. So, therefore, the reason assigned for rejecting to consider the candidature of the writ petitioners is clearly untenable and contrary to the policy decision contained in paragraph 9(c) of G.O. Ms. No. 35 dated 27.03.2006. In this context, it is worthy to recall that the Director of Higher Education has gone on record that the cases of the petitioners fully satisfy the conditions and requirements spelt out in G.O. Ms. No. 212 F&PIg (PC.III) Department dated 22.4.1994. In that view of the matter, the decision contained in the impugned memo dated 20.04.2009 is clearly unsustainable.

6. Learned counsel for the petitioner has pointedly drawn my attention to an order passed by the State Government in their G.O. Rt. No. 356 Higher Education (CE.II-1) Department dated 09.05.2006, according permission to regularize the service of Sri Y. Ramudu, working on NMR basis in M.R. College for Women, Vizianagaram as Attender in the existing vacant aided post from the date the said orders are issued. In the instant case too, the Management of the College has shown as to how the aided posts have fallen vacant in their college and as to how the petitioners were working against them. Therefore, the cases of the petitioners stand at par with that of Sri Y. Ramudu, NMR attender who worked in M.R. College for Women, Vizianagaram and in whose favour the State Government passed orders through G.O. Rt. No. 356 Higher Education (CE.II-1) Department dated 09.05.2006. Learned counsel for the petitioner has also drawn my attention to yet another order passed by the State Government in G.O.Ms.822 Higher Education (CE.II-1) Department dated 20.09.2006 according permission to regularize the service to one Sri K. Siva, NMR attender with effect from the date of issuance of the said order, subject to the condition that, no other senior person is overlooked and that the post of Attender is covered under grant-in-aid. In this view of the matter, the respondents are obligated to consider the case of the writ petitioners only from the stand point of view to get satisfied that the petitioners cases fall within the sweep of the policy decision announced through G.O. Ms. No. 212 F&PIg (PC.III) Department dated 22.4.1994. The same cannot be rejected only on the ground that the Management of the College has paid for their wages. It is well to remember that, so long as the services of the petitioners are not admitted to grant-in-aid, no financial commitment can be fastened on to the State Government towards payment of their salary and allowances. Till such time such an

obligation arises on the part of the State Government, it remains to be the bounden duty of the management of the college to pay for the wages of the petitioners. Hence, rejecting the case of the petitioners only on the ground set out in the impugned memo is unsustainable, and hence, the impugned memo is set-aside. Matter is remitted to the State Government so as to enable it to take an informed decision for regularization of the services of the writ petitioners. Let this exercise be completed within a maximum period of four months from the date of this order and the decision taken thereon be communicated to the petitioners. The writ petition is allowed. No costs.