



IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
THE HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD
WRIT PETITION No. 17261 of 2016

ORAL ORDER:

Heard Sri Raja Reddy Koneti, Ld. Counsel for the Writ Petitioner and Sri A.Sanmukha Reddy, Ld. Assistant Government Pleader for Women Development and Child Welfare appearing for Respondent Nos.1 to 4.

2. The prayer sought in the present Writ Petition is as under:

“It is prayed that the Hon’ble Court may be pleased to issue any writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in insisting and issuing notices to the petitioner to obtain license for the hostels established for the boarding of the children studying in the schools run by the petitioner as illegal, arbitrary and contrary to the Provisions of The Women’s and Children’s Institutions (Licensing) Act, 1956 (Central Act No.105 of 1956) and consequently direct the respondents not to insist the petitioner to obtain the said license in the interest of justice and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case”

3. This Writ Petition has been filed by the Society titled as India Rural Evangelical Fellowship. The core



objective of the Society is to run Educational Institutions. About eight Educational Institutions are being run by the Society which are as under:

- “1.John’s Elementary School.
- 2.John’s High School.
- 3.Repalle Christian Junior College, Repalle.
- 4.Repalle Christian Degree and Post Graduate College, Repalle.
- 5.Repalle Christian College of Education, Repalle.
- 6.Repalle Christian College of Nursing.
- 7.IREF Institute of Elementary Teacher Education, Repalle.
- 8.Repalle Christian Industrial Training Institute.”

4. The Official Respondents have issued various Notices to this Writ Petitioner Society stating that the Educational Institutions being run by the Society which have hostels shall have to apply and obtain license as per the provisions of the Central Act namely the Women’s and Children’s Institutions (Licensing) Act, 1956 (Central Act No.105 of 1956) (herein after referred as “the Act, 1956”). In this regard Notices were issued to the Writ Petitioner Society on 17.12.2014 (Ex.P3) and 19.01.2015 (Ex.P1). Having been aggrieved by the above Notices, the Writ



Petitioner approached this Court by filing instant Writ Petition contending that the Educational Institutions run by the Writ Petitioner Society do not come under the purview of the Act, 1956.

5. Sri Raja Reddy Koneti, Ld. Counsel for the Writ Petitioner Society has drawn the attention of this Court to the various provisions of the Act, 1956. Particularly, he has drawn the attention of this Court to the definitions provided under Sub-Sections (b) & (c) of Section 2 and also Section 3 and Sub-Section (a) of Section 10 of the Act, 1956. They are as under:

“Sub-Sections (b) & (c) of Section 2:

(a)

(b) “Institution” means an institution established and maintained for the reception, care, protection and welfare of women or children;

(c) “licensing authority” means the State Government or such Officer or authority as may be prescribed;

Section 3:

3. Licensing of institutions: After the commencement of this Act, no person shall establish or maintain an institution except under and in accordance with the conditions of a licence granted under this Act.



Sub-Section (a) of Section 10:

10. Act not to apply to certain institutions:

Nothing in this Act shall apply to--

(a) hostels, or boarding houses attached to, or controlled or recognised by educational institutions;”

6. Having referred to the above provisions, Sri Raja Reddy Koneti, Ld. Counsel for the Writ Petitioner Society submits that the provisions are clear that the Act intends to exempt the hostels being run by the Educational Institutions from the purview of the Act.

7. Sri A.Sanmukha Reddy, Ld. Assistant Government Pleader for Women Development and Child Welfare appearing for Respondent Nos.1 to 4 has stated that the Official Respondents have filed their Counter-Affidavit. He has drawn the attention of this Court to an Order passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.473 of 2005 dated 11.09.2015. He has also drawn the attention of this Court to the portion of the Order to indicate that the Educational Institutions are also covered under the Act as per the directions given by the Hon'ble Supreme Court. The relevant portion of the Order



read out by Sri A.Sanmukha Reddy, Ld. Assistant Government Pleader for Women Development and Child Welfare is as under (internal page No.5 of the Order of the Hon'ble Supreme Court):

“The Ministry of Women and Child Development will coordinate with all the State Governments/Union Territories to ensure that the unregistered homes are not given any funds unless they are registered. The State Governments/Union Territories will ensure that children in unregistered homes should be shifted to registered homes.”

8. From the provisions of the Act, 1956, it appears to the Court that Section 2 (b) of the Act, 1956 defines Institution to mean an Institution established and maintained for the reception, care, protection and welfare of Women and Children. Sub-Section 3 of Section 2 of the Act, 1956 defines Licensing Authority to mean that the State Government or such Officer or Authority as may be prescribed. Section 3 of the Act, 1956 is an embargo imposed to establish or maintain an Institution except under and in accordance with the conditions of a licence to be granted under the Act. Sub-Section (a) of Section 10 of the Act, 1956 stipulates that nothing shall apply to hostels,



or boarding houses attached to, or controlled or recognised by Educational Institutions.

9. The Sub-Section (a) of Section 10 of the Act, 1956 is clear inasmuch as the provision starts with a non-obstante clause clearly barring hostels or boarding houses which are attached to or controlled or recognised by the Educational Institutions from being brought under the purview of the Act, 1956.

10. This makes it very clear that the demand as raised by the Official Respondents cannot be sustainable inasmuch as it is not supported by the provisions of Law. The reliance placed by the Official Respondents on the Central Enactment namely the Women's and Children's Institutions (Licensing) Act, 1956 (Central Act No.105 of 1956) is rather misplaced, and therefore, it cannot be sustained.

11. In this view of the matter, this Court is of the view that the provisions of the above Act, 1956, cannot be applied against the Educational Institutions run by the Writ Petitioner Society. Therefore, the Impugned Notices as



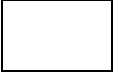
mentioned above are unsustainable and hence quashed. It is clarified that the Educational Institutions run by the Writ Petitioner Society are exempted from the purview of the Act. Therefore, it goes without saying, that the Official Respondents cannot insist the Writ Petitioner Society to obtain licence under the Act, 1956 for the hostels attached to or controlled or recognised by the educational institutions.

12. Accordingly, the Writ Petition is allowed. No order as to costs.

13. Interlocutory Applications, if any, stand closed in terms of this Order.

G. RAMAKRISHNA PRASAD, J

Dt: 20.06.2023.
SDP



THE HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No. 17261 OF 2016

20.06.2023

W

SDP