

**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**WRIT PETITION No.18190 OF 2023**

**ORDER:-**

The present Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

*“... to issue an appropriate writ more in the nature of Writ of Mandamus, declaring the action of the 2<sup>nd</sup> Respondent in not enforcing the orders of the 1<sup>st</sup> Respondent vide G.O.Ms.No.38, School Education (Prog-II) Department, Dated 22.04.2023, directing the Regional Joint Director of School Education and District Educational Officers in the State, for substitution of the word “Eight Years” in the place of “Three Years” in the recognition orders of the Private Unaided Schools in the State as being arbitrary, illegal and violating Articles 14 and 19 of the Constitution of India and also in contravention of the provisions AP Education Act, 1982 and Right to Education 2009 and consequently direct the 2<sup>nd</sup> Respondent to implement the orders of the 1<sup>st</sup> Respondent vide G.O.Ms.No.38, Dated 22.04.2023 and issue such other writ or order or direction...”*

2. Heard learned counsel for the petitioners and learned Assistant Government Pleader for School Education.

3. Learned counsel for the petitioners submits that the 1<sup>st</sup> petitioner herein is the Association / Federation and the 2<sup>nd</sup> petitioner is the Society and established primary school / imparting primary education. While so, Respondent No.1 issued G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023 for amending the Sub Rule (4) of Rule 14 of G.O.Ms.No.20, School Education (P.E.Prog.I) Department, dated 03.03.2011.

4. Learned counsel for the petitioners further submits that the members of the 1<sup>st</sup> Petitioner Association obtained recognition from the respondents pursuant to the guidelines issued under G.O.Ms.No.20, School Education (P.E.Prog.I) Department, dated 03.03.2011. After issuance of G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023, the recognition granted under G.O.Ms.No.20, School Education (P.E.Prog.I) Department, dated 03.03.2011 should be extended for a period of eight years by substituting the Sub Rule (4) of Rule 14 in G.O.Ms.20, School Education (P.E.Prog.I) Department, dated 03.03.2011. He further submits that the substitution of word by eight years, it means that the recognition granted in respect of the members of the petitioner's association under G.O.Ms.20, School Education (P.E.Prog.I) Department, dated 03.03.2011 itself is eight years instead three years.

5. Learned counsel for the petitioners further submits that as per G.O.Ms.No.1, Education (P.S.2) Department, dated 01.01.1994, the tenure of recognition of a private unaided school was fixed as ten years. Later it was modified by way of G.O.Ms.No.20, School Education (P.E.Prog.I)Department, dated 03.03.2011 for a period of three years. Again, the same was modified for eight years by way of G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023.

6. Therefore, the respondents should be directed to comply the mandate issued under G.O.Ms.No.38, School Education (Prog-II) Department, dated

22.04.2023 in respect of the members of the petitioners association. But, the Respondents are not taking steps for amending the recognition from three years to eight years as contemplated under G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023. Hence the writ petition.

7. On the other hand, learned Government Pleader for School Education filed counter-affidavit, wherein in para-6 of the counter-affidavit admitting that the extension of the recognition period of the Private Unaided schools is from three to eight years duly fulfilling the certain conditions from the date of issuance of G.O.Ms.No.20, School Education (P.E.Prog.I) Department, dated 03.03.2011.

8. The said admission is clear and categorical who ever granted recognition under G.O.Ms.No.20, School Education (P.E.Prog.I)Department, dated 03.03.2011, they should avail benefit of period as granted under G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023.

9. The learned Assistant Government Pleader for School Education also reiterated the contentions made by the respondents in the counter affidavit that the period of the recognition was extended from three years to eight years but it is only in prospective manner not by way of retrospective manner. But, the said contention of the learned Assistant Government Pleader for School Education is contrary to the contention in the para 6 of the counter affidavit wherein it is stated that the extension period from three years to eight years should be applicable who ever is granted recognition

under G.O.Ms.No.20, School Education (P.E.Prog.I)Department, dated 03.03.2011.

10. Having regard to the submission made by the learned counsel for the petitioner as well as learned Assistant Government Pleader for School Education and on perusal of material on record, it appears that the G.O.Ms.No.20, School Education (P.E.Prog.I) Department, dated 03.03.2011 was amended by way of G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023, wherein it is held as follows:

***(1) In sub rule (4) of Rule 14,***

*(i) for the word “three years” wherever occurred, the word “eight years” shall be substituted.*

11. The language indicates under G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023 is by way of substitution to Sub Rule (4) of Rule 14, which it indicates that wherever, permission was granted for three years, it would have been granted for a period of eight years. Therefore, it cannot be said that it is only prospective in nature. The said contention was supporting by para-6 of the counter-affidavit.

12. In view of the reasons stated above and in view of the admission on the part of respondent authorities by way of counter affidavit, the writ petition is allowed, directing the respondents to take all steps as required pursuant to the G.O.Ms.No.38, School Education (Prog-II) Department, dated 22.04.2023.

13. With the above direction, the writ petition is allowed. There shall be no order as to costs.

14. As a sequel thereto, interlocutory applications pending, if any in the writ petition, shall also stand closed.

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**JUSTICE VENKATESWARLU NIMMAGADDA**

8<sup>th</sup> August, 2023

Note: Issue CC by 11.08.2023.

B/o.

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