

Court No. - 3

Case :- WRIT - C No. - 6592 of 2006

Petitioner :- State Of U.P. Thru Prin.Secy. Religious Affairs
And Anr.

Respondent :- State Chief Information Commissioner And Anr.

Counsel for Petitioner :- Standing Counsel

Counsel for Respondent :- C.Sc..

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

Heard learned Standing Counsel for the State petitioner.

By the impugned order dated 17.07.2006, the Chief Information Commissioner has directed the State Government including the Chief Minister to make appropriate appointment of Adhyaksh of Kashi Vishwanath Temple under the Kashi Vishwanath Temple (Amendment) Act, 2003. This court while entertaining the present writ petition has passed following order on 13.10.2006:

"Notice on behalf of respondent no.1 has been accepted by the learned Chief Standing Counsel.

Issue notice to respondent no.2 returnable at an early date.

List in the next month.

Prima facie, we feel that under the provisions of the Right to Information Act, 2005, the Chief Information Commissioner has no authority / jurisdiction to make the appointment in question or to recommend for any such appointment or to direct that the file be placed before the Chief Information Commissioner has no authority / jurisdiction to make the appointment in question or to recommend for any such appointment in question or to recommend for any such appointment or to direct that the file be placed before the Chief Minister for the purpose.

The function of the Chief Information Commissioner prima facie, is only to provide information, if it is permissible under the Act.

We accordingly stay the operation of the impugned order dated 17.07.06.

However, this order shall not be taken to mean that this Court has approved the appointment, function and continuance of the Commissioner of the Division as Adhyaksh. We further clarify that this order would also not come in the way of the State Government in making necessary

appointment as per the provisions of the Kashi Vishwanath Temple (Amendment) Act, 2003. In fact, the State is under a legal obligation to appoint the Adhyakash as per the statutory provisions and we do not find any reason to presume that the State would not act accordingly to make the necessary appointment at the earliest."

The bare perusal of the aforesaid order and Right to Information Act, 2005 shows that the Chief Information Commissioner has no authority / jurisdiction to make recommendation to the Chief Minister or the State to make appointment.

In view thereof, the order dated 17.07.2006 is set aside.

The writ petition is allowed.

.

[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 2.11.2023

S. Kumar